

(6) Final Determination Documents

- January 29, 2004

Summary Under the Criteria and Evidence for
Final Determination for Federal Acknowledgment

of the

Schaghticoke Tribal Nation

Prepared in response to a petition submitted to the Assistant
Secretary - Indian Affairs for Federal acknowledgment that this
group exists as an Indian Tribe.

JAN 29 2004

Approved: _____ (date)

Aurene M. Martin

Principal Deputy Assistant Secretary - Indian Affairs

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Final Determination for the Schaghticoke Tribal Nation

Introduction

Introduction

The Office of Federal Acknowledgment (OFA) under the authority of the Assistant Secretary - Indian Affairs (AS-IA) of the Department of the Interior (Department), prepared this Final Determination (FD) in response to the petition received by the Assistant Secretary - Indian Affairs (AS-IA) from the Schaghticoke Tribal Nation (STN), petitioner #79, seeking Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR Part 83), "Procedures for establishing that an American Indian Group exists as an Indian Tribe." The regulations establish procedures by which Indian groups may seek Federal acknowledgment of a government-to-government relationship with the United States. To be entitled to this political relationship with the United States, the petitioner must submit evidence demonstrating that it meets all of the seven mandatory criteria set forth in 25 CFR Section 83.7. Failure to meet any one of the seven criteria will result in the Department's determination that the group does not exist as an Indian tribe within the meaning of Federal law.

The Department is considering the STN petition under a court approved negotiated agreement between the STN, the State of Connecticut, and other interested parties involved in pending litigation. The court approved negotiated agreement supercedes certain time periods and some of the procedures in 25 CFR Part 83. This agreement neither modifies the criteria nor the standards required to demonstrate that all of the criteria have been met (see Administrative History).

This determination is final and will become effective 90 days from the date of publication, unless a request for reconsideration is filed pursuant to 25 CFR 83.11 or unless any party or *amici* in the litigation files for Administrative Procedures Act (APA) review with the district court. In addition, the court approved negotiated agreement calls for negotiation as to whether a request for reconsideration may be filed before the Interior Board of Indian Appeals (IBIA) or whether judicial review under the APA is the only review. The negotiation was to begin 90 days after the close of the petitioner's period to respond to third party comments (September 29, 2003), and continue no later than 30 days after publication of the FD. These ongoing negotiations may impact the ability of interested parties, whether parties to the litigation or not, to seek reconsideration before IBIA. Inquiries by interested parties concerning the availability of the IBIA review should be directed to the Office of the Solicitor, Branch of Tribal Government and Alaska, 202-208-6526, Attention: Scott Keep or Barbara Coen.

The evidentiary basis for the Final Determination (FD) consists of the documentation used in preparation of the Proposed Finding (PF), the petitioner's response to the PF, third party comments on the PF, the petitioner's response to the third party comments, and other pertinent

material that the OFA staff collected as part of the verification and evaluation process. The data will be discussed under the appropriate criteria.

This FD is the Department's evaluation of the evidence based on the criteria and standards set forth in the regulations at 25 CFR Part 83, and the standards of the disciplines of anthropological, historical, and genealogical research. This FD does not respond to the issues raised in each submission on a point-by-point basis, but responds as they relate to the criteria. Other issues of a more general nature that do not address the criteria that were raised by the State of Connecticut and Housatonic Valley Coalition (a.k.a. the Towns) or the STN will be addressed separately (see below).

Throughout the comments on the STN PF submitted by the third parties (CT *et al.* 8/8/2003; Housatonic Valley Coalition 8/8/2003), the PF is consistently attributed to the "BIA" (Bureau of Indian Affairs). As an introduction to the analysis of the third party comments, it should be noted that the PF was issued by the Assistant Secretary - Indian Affairs (AS-IA). Throughout the following section, the phrase "BIA's preliminary determination" (CT *et al.* 8/8/2003, 91, and elsewhere) should be read as the AS-IA's Proposed Finding on the STN petitioner (STN PF 2002).

Name and Address of the Petitioner

The formal name of petitioner #79, as listed in the current governing document and the name on its letterhead, is the Schaghticoke Tribal Nation. The group used other names on its letterhead over the years, including Schaghticoke Indian Tribe and Schaghticoke Indians of Kent, Connecticut, Inc. The present name was adopted in 1991. The petitioner's mailing address is c/o Mr. Richard L. Velky, 33 Elizabeth Street, 4th Floor, Derby, Connecticut 06418.

Office of Federal Acknowledgment

On July 28, 2003, the Branch of Acknowledgment and Research (BAR), the office in the Bureau of Indian Affairs within the Department of the Interior principally responsible for administering the regulations, 25 CFR Part 83, became the Office of Federal Acknowledgment (OFA) under the Assistant Secretary - Indian Affairs (AS-IA). The duties and responsibilities of OFA remain the same as those of BAR, as do the requirements set forth in the regulations. The AS-IA makes the determination regarding the petitioner's status, as set forth in the regulations as one of the duties delegated by the Secretary of the Interior to the AS-IA (209 Department Manual 8). In this report, OFA should be read to mean BAR when discussing activities conducted prior to July 28, 2003.

Summary of Administrative History Prior to the Proposed Finding

The petitioner, as the "Schaghticoke Indian Tribe," passed a resolution to seek Federal acknowledgment on September 20, 1981 (Resolution 9/20/1981), which was filed as a letter of

intent to petition on December 14, 1981. The Schaghticoke changed its name to Schaghticoke Tribal Nation of Kent (STN) by amending the governing document at a membership meeting in 1991 (STN Amendments 10/6/1991, Minutes 11/3/1991). However, the name does not appear on documents until 1993, when the group formed a nonprofit corporation by that name (Cert. of Inc. 12/14/1993). For this report, the petitioner will be referred to as the Schaghticoke Tribal Nation (STN), its current name, throughout its organizational history, to avoid confusion with the "Schaghticoke Indian Tribe," petitioner #239, which is also an interested party to this petition. The latter will be referred to by the initials SIT.

STN submitted its first documented petition on December 12, 1994. STN submitted additional materials between 1994 and 1999. Beginning in December 2000 the STN, parties to the litigation, and interested parties submitted additional data pursuant to the court approved negotiated agreement. Under that agreement, the STN went on active consideration on June 5, 2002. See the administrative history in the PF for additional details.

Litigation

Several lawsuits filed in the Federal courts impact the history and administrative handling of the Schaghticoke Tribal Nation petition. Two of these are land claims suits under the Non-Intercourse Act, *Schaghticoke Tribal Nation v. Kent School Corp. et al.*, Civil No. 3:98 CVO1113 (PCD) and *Schaghticoke Tribal Nation v. U.S. and the Connecticut Light and Power Company*, Civil No. 3:00 CV00820 (PCD). The third lawsuit is *United States of America v. 43.47 Acres of Land et al.*, Civil No. H-85-1078(PCD), filed on December 16, 1985. In this suit the U.S. seeks to condemn certain lands on the Schaghticoke Reservation, under eminent domain, to become part of the Appalachian Trail. All three lawsuits involve the question of whether the STN is a tribe.

The land claims suits and the condemnation suit are being heard concurrently. The court approved negotiated agreement under which this petition is being evaluated is part of these concurrent actions.

Court Approved Negotiated Agreement Governing the Procedures for the STN Petition Evaluation

The Department's evaluation of this petitioner is being conducted under a court approved negotiated agreement between the Department, STN, and parties to the several, concurrent lawsuits mentioned above. This scheduling order, entered May 8, 2001, established timelines for submission of materials to the Department and deadlines for submission of comments, issuance of a PF and issuance of a FD, that supercede the provisions of the acknowledgment regulations, 25 CFR Part 83.

The agreement also defined conditions for handling of case materials and provided for the development of a database system for use in the petition evaluation. Under this agreement, the

Department will provide the STN and all parties to the litigation a copy of the complete database used for the FD, together with linked image files of all documentation submitted in response to the PF and any additional documents obtained by the OFA staff in preparing the FD. For a more comprehensive explanation of the agreement, see pages 3 to 5 of the introduction to the STN PF.

Administrative History Since the Proposed Finding

The PF against acknowledgment of the STN was issued December 11, 2002. In accordance with the court approved negotiated schedule, on January 8, 2003, the petitioner and interested parties were provided with a copy of the FAIR database used for the PF, together with the scanned images of documents added to the administrative record by the OFA researchers in the course of preparing the PF, including materials specifically requested from the State and from the STN by OFA.

Neither the STN nor any third parties requested a formal on the record technical assistance meeting under 83.10(j)(2). Three informal technical assistance meetings were held with the STN and its researchers, with a followup letter summarizing the main points of the technical assistance (Smith to Velky 3/14/2003). A technical assistance meeting via telephone conference was held with the representatives of the State of Connecticut and the municipalities, followed by a letter summarizing the discussion (Bird Bear to Kohler 6/25/2003). The OFA also held a technical assistance meeting with the SIT on its petition during the STN petitioner's comment period (Smith to Russell 4/30/2003). Although not specifically technical assistance on the STN PF, because much of the SIT were part of the STN and thus had a common history, and because the SIT claims the STN petition as theirs, much of the advice provided was based on the STN PF. Finally, the OFA held a brief technical assistance meeting by phone conference with some members of the Cogswell family who are not presently part of any specific group.

The original schedule called for comments to be received from the STN and third parties on June 9, 2003, and for the STN to respond to those comments by July 9, 2003, when work on the FD would commence. At the request of the Department, the court granted a change in the start date for the FD, advancing it by 82 days, until September 29, 2003 (Dorsey, 3/25/03 order, USDC CT). This request was made to allow the research team assigned to the STN petition to complete work on another petition, which was already in progress. The court at the same time advanced by 82 days the closure date for on the PF, to August 8, 2003, and for the STN response to comments, to September 7, 2003. The date for completion of the FD was advanced by the same order until January 29, 2004. In a subsequent ruling, in response to a motion by the STN, the court granted the STN leave to provide its response on September 29, 2003.

Responses to the PF were received on August 8, 2003, from the petitioner, the State of Connecticut together with the Connecticut Light & Power Company, Kent School Corporation,

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and the Town of Kent (Connecticut *et al.* 8/8/2003)¹ and by the Housatonic Valley Coalition (Housatonic Valley Coalition 8/8/2003).² The Housatonic Valley Coalition represents the same group of local governments, with one additional town, which for the PF submitted comments as the Connecticut Municipalities. The STN response to the comments of these third parties was received September 29, 2003. The Department did not receive comments on the PF from the Schaghticoke Indian Tribe (SIT), from the Cogswell family or Loretta Bonos, parties who had submitted comments reviewed for the PF, nor from other parties to the litigation, or from other interested parties to the petition who are not part of the litigation.

The State of Connecticut, by letter of October 14, 2003, to the Department sought to submit additional materials which it indicated could not have been submitted before the closure of the public response period. The Department, citing the terms of the court approved negotiated agreement, declined to accept the materials because they had not been submitted within the time frame stated in the agreement (Coen 10/21/03). The State then filed a motion before the court, dated November 7, 2003, requesting the court to Department's response on November 17, 2003, did not oppose this motion, but requested of the court that any amend the scheduling order to allow submission of certain of these materials. The submission and response be made in a timely manner to avoid impacting the court approved schedule. The STN responded on November 26, 2003, opposing the consideration of the materials offered by the State, or, in the alternative, requesting that they be allowed to submit materials in response. The Department subsequently concluded, based on the motions filed and reports in the press, that the materials at issue concerning the enrollment status of certain individuals were within the scope of its standard evaluation of the petitioner's membership records for the FD and that a review of the additional material would not delay the evaluation. On December 3, 2003, the Department requested court's permission it to examine the specific materials that the State and the STN had asked permission of the court to submit. The court agreed by orders dated December 11, 2003, and December 19, 2003.

On December 5, 2003, the Department requested certain materials from the STN, to supplement petition materials and provide information to allow evaluation of the petitioner's membership and other questions. The requested materials included documentation concerning the enrollment status and ancestry of some individuals, clearer copies of certain materials submitted by the petitioner, and interview materials relating to documents already in the record.

There have been several lawsuits between members and former members of the Schaghticoke organization, between the petitioner's members and the Connecticut Indian Affairs Council

¹These same entities presented a joint submission that was considered for the STN PF (CT *et al.* 4/16/2002).

²"Comments of City of Danbury, Towns of Bethel, Brookfield, New Fairfield, Newtown, and Ridgefield, Connecticut and the Housatonic Valley Council of Elected Officials on the Proposed Finding of the Bureau of Indian Affairs that the Schaghticoke Tribal Nation Petitioner Group does not Qualify as an Indian Tribe Under Federal Law Submitted to Branch of Acknowledgement [*sic*] and Research Bureau of Indian Affairs, 8/8/2003."

(CIAC), the petitioner's members, and others. With one very recent exception, these do not impact the administrative history or the Federal court actions referenced above. They are dealt with, to the degree they are relevant to the petition evaluation, in the body of the text.

Other Groups which Include Individuals Previously on the STN Membership Lists

There are two groups of Schaghticoke descendants who are interested parties to this petition: the Schaghticoke Indian Tribe (SIT) and the "Cogswell Family" (Cogswells). Both are made up of individuals who were formerly enrolled with the STN or have been closely involved with the STN throughout their lives, but did not "re-enroll" under the provisions of the current constitution.³ The SIT is a party to the Schaghticoke litigation, and an interested party to the STN petition. The Cogswells withdrew from the STN petitioner or declined to re-enroll after 1995. This group is not a petitioner, but is an interested party to the STN petition. Neither the SIT nor the Cogswells submitted comments in response to the PF. A more detailed description of the both groups is in the introduction to the PF.

³There are 73 names on the SIT 2001 membership list. Nineteen names on the SIT's 2001 membership list were on the STN's 1982 list of "Corporate Members" and 17 names on the SIT membership list had a parent or grandparent on the 1982 STN list. This means that about 49 percent of the SIT (36 of 73) were part of the STN. Fourteen members of SIT resigned from STN, including 11 individuals who were on the 1982 STN list of "Corporate Members."

Abbreviations and Acronyms

These have been used in the Summary under the Criteria and the Description and Analysis of the Evidence

AS-IA	Assistant Secretary - Indian Affairs.
BAR	Branch of Acknowledgment and Research, Bureau of Indian Affairs.
BIA	Bureau of Indian Affairs.
CFR	<i>Code of Federal Regulations.</i>
CIAC	Connecticut Indian Affairs Council.
CT Gen. Ass.	Connecticut General Assembly.
CTSPFC	Connecticut State Park and Forest Commission.
DEP	Connecticut Department of Environmental Protection.
DOI	Department of the Interior.
Ex.	Documentary exhibit submitted by petitioner or third parties.
FAIR	Federal Acknowledgment Information Resource database system.
FD	Final Determination.
FR	<i>Federal Register.</i>
ICC	Indian Claims Commission.
Narr.	Petition narrative.
OD	Obvious deficiencies letter issued by the BIA.
OFA	Office of Federal Acknowledgment.
PF	Proposed Finding.
SIT	Schaghticoke Indian Tribe, petitioner #239.

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SPFC State Park and Forest Commission.

STN Schaghticoke Tribal Nation, petitioner #79.

TA Technical assistance letter issued by the BIA.

Standardized Spellings

When discussing Indian tribes and bands, and names of individuals, this Summary uses the current standardized spellings. Where specific historical documents are quoted, these names are spelled as found in the original. One concrete example of this is the variation in tribal name itself, whether Schaghticoke, Scaticuck, Scattacook, while another is the individual family name Mauwee, which appears in more than a dozen different variants.

Discussion of Issues That are Not Criteria Specific

The Evaluation of the Interview Evidence

The State of Connecticut raises the question of the value of new interview evidence submitted in response to the PF as being inherently biased. It notes that under the court approved agreement the State will not be able to specifically respond to these interviews, since they are materials submitted at the end of the public comment period on the finding. As the OFA advised the State in technical assistance on this PF, citing in part the discussion at some length in the Historical Eastern Pequot (HEP) Final Determination (Bird Bear to Kohler 6/25/2003), any set of interviews conducted in prospect of a group, or a third party, seeking or opposing Federal acknowledgment is not a theoretically neutral account. Such interviews, as do almost all interviews, reflect the views, experience, biases, etc. of the interviewee, as well as the views of the interviewer. This fact applies equally to the Irving Harris interview supplied by the State in its response to the PF, upon which it places substantial reliance. Interviews, like any other evidence, must be, and as have been in this case, examined carefully in the context of all of the evidence.

Evaluation of Evidence from Interviews with Irving Harris and Catherine (Harris) Velky

Considerable attention is directed by both the STN and the State to the interviews of Irving Harris, a former chairman or chief of the STN and a key political figure, and those of his sister, Catherine (Harris) Velky who is the mother of the currently elected leader of the STN and also a active political figure in her own right. The latter's interviews were cited by the PF as providing information requiring further evaluation because data in them conflicted with other data in the record. Comments of general applicability to the interviews of each are provided in this section to describe how this information was evaluated and used in this FD. Specific information from the interviews is referenced in the appropriate sections of the evaluations of the specific criteria.

The record for the PF contained no interviews with Irving Harris, the long time chairman, although it did include a number of personal statements and letters written by him and an extensive record of his activities as chairman, as well as the views of family members and other Schaghticoke who had been associated with him. In response to the PF, the STN submitted the text of a telephone interview with Irving Harris conducted on March 5, 2003, and the State submitted the text of an in-person interview with him conducted several months later (Irving Harris 6/10/2003). Irving Harris has over the past decade expressed extremely strong opposition to recognition of the Schaghticoke while it is led by the current chairman, Richard L. Velky (Harris to DOI 1/21/1995; Harris to BAR 2/10/1995).

The information in the two Irving Harris interviews is generally consistent, despite the two different parties (the STN and the State) doing the interviews. Harris, in his interviews, espouses, as does his sister, Catherine (Harris) Velky, a fairly negative view, in effect downplaying the degree and significance of both social and political activities within the group. They appear to

share a particular point of view about the Schaghticoke group and its history, a viewpoint, and statements, which must be evaluated in the light of the total body of evidence. Their expressed views may also reflect the strong political conflicts characteristic of the group, downplaying the role of others, and stressing the achievements of their administration, particularly the process of "reorganization" initiated by Irving Harris in 1967 (see discussion under criterion 83.7(c)). Nonetheless, Harris' interviews provide some significant information demonstrating community and political processes. This information is referenced in the appropriate descriptive sections of this FD.

As a general matter, the interviews indicate that Harris' view of what constitutes tribal government or political leadership is that to be considered government requires a clear, well developed organization, and leadership is shown with the power to carry out substantial actions. Thus, he characterizes his own leadership and council as not being particularly substantial politically, denying that they could be called a "government" (CT Interview 6/10/2003). His characterization of the efforts of his father, Howard Nelson Harris and those of Franklin Bearce, as being very limited, have been evaluated in this context.

The PF raised the issue of the character of statements made in Catherine (Harris) Velky's interviews because they appeared to provide evidence conflicting with the other available evidence. A significant portion of the negative evidence cited by the PF was derived from interviews with Catherine (Harris) Velky, held either alone or with her brother Howard (Bud) Harris. The conflicts in evidence could not be resolved in the analysis for the PF (STN PF, 130). In technical assistance meetings, the issue was raised by the OFA staff as to why these interviews provided statement at variance with information in some other sources. In the technical assistance meetings with the STN, the OFA suggested that Mrs. Velky be re-interviewed and that the parties respond to the PF's comment on the characterizations of Schaghticoke activity seen in her prior interviews which minimized the degree of social and political activity that existed (Smith to Velky 3/14/2003).

For its response, the STN conducted additional interviews with Catherine (Harris) Velky and also presented an analysis of her interviews, commenting on the kinds of statements made and possible reasons for the nature and content of her responses. The STN response presented a detailed discussion which depicts Catherine (Harris) Velky as a reticent individual and states that for a significant portion of the time period covered by the interviews she was busy with family and child-rearing duties and not involved in broader Schaghticoke affairs (Palma 9/28/2003). It states further that from the 1950's into the 1970's women tended to be excluded from Schaghticoke meetings and political activities. The PF, itself, noted her statement in the interviews in the record that she was not heavily involved from the time she was married until the 1960's (STN PF 2002, 126). The explanation of her interview statement as the result the exclusion of women from Schaghticoke political processes, however, contradicted the fact that several women were politically involved from the time Irving Harris became leader in 1967 and earlier, during the era of the Franklin Bearce-led council in the 1940's and 1950's.

The STN's analysis does not directly address the overall character of the Catherine (Harris) Velky interviews, which fairly consistently present descriptions of the STN activities as relatively limited (Palma 9/28/2003). Catherine (Harris) Velky's limited involvement was already taken into account in the PF analysis. This FD does not accept the key claims in the STN's report as an adequate explanation. This FD concludes, however, that some of Catherine (Harris) Velky's key statements cited in the PF and by the State conflict with the larger body of more reliable evidence, and thus are not an accurate depiction of the events. Relevant factors in evaluating the reliability of her interviews are an approach that minimizes the significance and extent of participation in events she described (the STN report notes her as "reticent"), and the contentious relationships between major family lines that lead to her downplaying the role and involvement of other families (see analysis under 83.7(c)). As noted in the analysis under criterion 83.7(c) concerning the 1960's, there is some evidence from the interviews of Irving Harris himself which conflicts with those of his sister, Catherine (Harris) Velky.

Applicability of the February 2000 "Directive" to OFA Staff Research Conducted to Evaluate the STN Petition for the Proposed Finding

Connecticut argues that: "The Wojciechowski Report Upon Which BIA Relies is Not Properly Part of the Record and Was Considered in Violation of the February 11, 2000 Directive" (CT *et al.* 8/8/2003, 104). The item to which Connecticut refers as the "Wojciechowski Report" is a published academic book: Franz Laurens Wojciechowski, *Ethnohistory of the Paugussett Tribes: An Exercise in Research Methodology* (Amsterdam, Netherlands: De Kiva, 1992; cited as Wojciechowski 1992). Connecticut then asserts that "To remedy this problem, the FW Report must be deleted from the record and all analysis based upon it disavowed" (CT *et al.* 8/8/2003, 109).

The February 11, 2000, Directive provided that the BIA staff was "not expected or required to locate new data in any substantial way" but rather should limit its research to that necessary to "verify and evaluate the materials presented by the petitioner and submitted by third parties" (65 FR 2/11/2000, 7052). The specific wording of the Directive states;

The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria (65 FR 2/11/2002, 7052).

The Directive also provides: "The BIA is expected to use its expertise and knowledge of sources to evaluate the accuracy and reliability of the submissions" (65 FR 2/11/2002, 7052-7053).

Use of the book in question (Wojciechowski 1992) for the purpose of evaluating the assertions made by interested parties did not involve the location of new data in any substantial way. The book was already in the holdings of the Branch of Acknowledgment and Research. OFA staff had

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used the book previously in the course of preparing other findings and determinations and were thus already familiar with its contents.

Staff were also aware that the contents of the book were relevant to evaluation of the assertions made by the State (CT *et al.* 4/16/2002, 38-40), and by the Connecticut Municipalities (CT Municipalities Intro. Narr. 4/16/2002, 5-8, 11-14), in regard to the history of Indian tribes in northwestern Connecticut prior to the arrival of the Moravian missionaries at Schaghticoke in the early 1740's and whether the settlement at Schaghticoke was formed by "disparate individuals or families from diverse tribes who happened to end up in the same location" (CT *et al.* 4/15/2002, 50).

By using the book in this manner, the BIA staff was evaluating the petitioner's and interested parties' assertions and was not, as such, doing research to fill in deficiencies in the petitioner's evidence. Thus, the use of Wojciechowski's book was consistent with the Directive.

Connecticut states: "It is only because BIA conducted its own research outside the record, and departed from its own precedent, that a rationale emerged to allow the STN to meet this [first sustained contact] test. Such action by BIA violates the fundamental principle of the acknowledgement [*sic*] process that the burden of proof is on the petitioner" (CT *et al.* 8/8/2003, 93-94, n14).

While it is correct to say that the burden of proof is on the petitioner, the *fundamental* principle of the Federal acknowledgment process is to enable the AS-IA to determine, on the basis of the best evidence available to the Government, whether or not a petitioner meets the seven mandatory criteria of 25 CFR 83.7(a)-(g) and should therefore be acknowledged to exist as a tribe within the meaning of Federal law (see 25 CFR 83.2 and 83.2(a)). The Directive specifically provides that the Department's researchers use their professional preparation and expertise to evaluate the evidence submitted and to provide the AS-IA with the best possible information upon which to base an important determination within the regulatory time frames.⁴

State Recognition as Evidence

Summary of the Proposed Finding

The STN PF concluded that:

The Schaghticoke have been a state-recognized tribe, with a state reservation, from colonial times until the present. The State administered a Schaghticoke tribal

⁴The February 2000 directive stated: "Although professional standards of BIA researchers will be applied to the review, these standards shall be applied within the constraints of time established by these procedures and the resources available, and as appropriate to the role of the Government in these procedures . . ." (FR 65, 2/11/2000, 7053.)

fund and made specific appropriations for the Schaghticoke until well into the 1950's. However, within the general parameters of Connecticut state-recognized legal status, the specifics of state dealings with state-recognized tribes differed from tribe to tribe in an at least one important respect that is relevant to the extent to which state recognition provides additional evidence for the community and political influence criteria in 25 CFR 83.7(b) and 25 CFR 83.7(c). In this instance, there are substantial periods of time, from the early 1800's until 1876 and from 1885 until the late 1960's, when the State did not deal with or identify formal or informal leaders of the Schaghticoke, and did not consult with members concerning issues which concerned the entire group. In the 1930's, the State declared affirmatively that there were no leaders recognized by the group (STN PF 2002, Summ. Crit., 10).

The PF referenced a section of the Eastern Pequot and Paucatuck Eastern Pequot Final Determinations entitled "Consideration of Continuous State Recognition with a Reservation." This section set out how evidence based on continuous state recognition had been applied in that evaluation:

This final determination concludes that the State relationship with the Eastern Pequot tribe, by which the State since colonial times has continuously recognized a distinct tribe with a separate land base provided by and maintained by the State, and which manifested itself in the distinct, non-citizen status of the tribe's members until 1973, provides an additional form of evidence to be weighed. This evidence exists throughout the time span, but is most important during specific periods where the other evidence in the record concerning community or political influence would be insufficient by itself. The continuous State relationship, although its nature varied from time to time, provides additional support in part because of its continuity throughout the entire history of the Eastern Pequot tribe (EP FD 2002, 14; PEP FD 2002, 16).

The PF on the STN also referenced from the Eastern Pequot and Paucatuck Eastern Pequot Final Determination the conclusion that:

The continuous State relationship with a reservation is not evidence sufficient in itself to meet the criteria. It is not a substitute for direct evidence at a given point in time or over a period of time. Instead this longstanding State relationship and reservation are additional evidence which, when added to the existing evidence, demonstrates that the criteria are met at specific periods in time. This is consistent with the approach taken in the regulations that in most circumstances a combination of evidence is used to demonstrate that a criterion is met (EP FD 2002, 14; PEP FD 2002, 16).

The Schaghticoke PF concluded that Connecticut's relationship with the Schaghticoke differed materially from that with the historical Eastern Pequot tribe. Specifically, it concluded that, unlike the historical Eastern Pequot where there were recognized leaders with whom the State or state-authorized officials dealt, for the Schaghticoke there were no such dealings between 1800 and 1967, except for two petitions, one in 1876 and one in 1884, to which the Litchfield County Superior Court responded. Thus, the PF found that relationship of this petitioner with the State was different in a material aspect from that of the historical Eastern Pequot.

The significance of continuous state recognition with a reservation rests on the continuous recognition of a distinct political community with a unique status, distinct from non-Indians of Connecticut. It does not show the existence of a government-to-government relationship, which has a particular meaning in the Federal-Indian relationship. It provides evidence bearing on continuity of the group's existence.

The PF concluded that while continuous state recognition with a reservation can provide additional evidence to be weighed in combination with the specific evidence that is present, it is not a substitute for direct evidence concerning community and political processes. The PF stated that

Because of the narrower quality of the state relationship with the Schaghticoke petitioner, the state relationship provides a more limited amount of additional evidence than it did in the case of the historical Eastern Pequot, especially with regard to demonstrating criterion 83.7(c), consistent with the reasoning in that final determination (STN PF 2002 Summ. Crit., 11).

In the PF, the evidence from the state relationship in combination with the specific evidence provided the basis for criteria 83.7(c) to be met for the Schaghticoke for some limited time periods when other specific evidence itself was otherwise insufficient. The state relationship did not provide sufficient evidence by itself for time periods when evidence concerning political processes was absent.

Review of Comments on State Recognition as Evidence Received in Response to the Proposed Finding

The majority of the material concerning state recognition presented by the third parties in their comments on the STN PF was already addressed in the PF. In so far as that is the case, the discussion is not repeated in the FD, but rather the reader is referred to the discussion in the PF.

The Historical Eastern Pequot Federal Register notice of acknowledgment summarized the state's relationship in the following manner. This language applies equally to the State's relationship with the Schaghticoke.

The State of Connecticut has since early colonial times continuously recognized the Eastern Pequot as a distinct tribe with a separate land base provided by and maintained by the State. The continuous State relationship manifested itself in the distinct, non-citizen status of the tribe's members until 1973. There is implicit in the relationship between the State and the historical Eastern Pequot a recognition of a distinct political body, in part because the relationship originates with and derives from the Colony's relationship with a distinct political body at the time the relationship was first established. Colony and State laws and policies directly reflected this political relationship until the early 1800's. The distinct political underpinning of the laws is less explicit from the early 1800's until the 1970's, but the Eastern Pequot remained non-citizens of the State until 1973. The State continued the main elements of the earlier relationship (legislation that determined oversight, established and protected land holdings, and exempted tribal lands from taxation) essentially without change or substantial questioning throughout this time period.

Generally, the third parties argue against the position formulated in the final determinations in regard to the Eastern Pequot (EP) and Paucatuck Eastern Pequot (PEP) petitions that continuous state recognition with a reservation is additional evidence to be weighed in combination with other evidence (CT *et al.* 8/8/2003, 32; Housatonic Valley Coalition 8/8/2003, 32-37). Connecticut has requested reconsideration of the AS-IA's decision to acknowledge the two Eastern Pequot petitioners as the Historical Eastern Pequot (HEP). That request is currently pending before the Interior Board of Indian Appeals (IBIA). The Housatonic Valley Coalition in its comments on the STN PF included a portion of a document that appears to be a brief before IBIA in connection with this request for reconsideration of the HEP, "II. BIA Made Reversible [*sic*] Error in its Treatment of the Historical Relationship Between the State and People of Indian Descent," as its Exhibit 16 (Housatonic Valley Coalition 8/8/2003a), with further sub-exhibits attached to that item.⁵

Similarly, the position taken by Connecticut is that, "The Use of State Recognition as 'Additional Evidence' Is Inappropriate and Unlawful" (CT *et al.* 8/8/2003, 17). Connecticut also asserts that, "The Acknowledgment Regulations Do Not Permit State Recognition To Be Used as 'Additional Evidence'" (CT *et al.* 8/8/2003, 17) and that "The Use of State Recognition Is Contrary To Both BIA and Judicial Precedent" (CT *et al.* 8/8/2003, 20). Further, Connecticut alleges that, "The BIA's Inability to Articulate a Consistent Rationale for Its Use of State Recognition Reflects Its Illegitimacy" (CT *et al.* 8/8/2003, 25). Connecticut also argues that the only criterion under which state recognition should be considered is 83.7(a) (CT *et al.* 8/8/2003, 38).

The petitioner presented counter arguments in support of the applicability of state recognition as evidence (Shapiro 9/29/2003, especially 4-17; Austin 9/29/2003, 43-46). The petitioner in these

⁵This item, as submitted, had no cover page, beginning with the table of contents. Its authorship is not clear.

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reports stresses claimed parallels between Federal recognition and state recognition, apparently based on this analogy, asserts that state recognition means that there is a government-to-government relationship and recognition of tribal sovereignty. The reports do not demonstrate, however, that state and Federal recognition are identical.

The regulations state:

The specific forms of evidence stated in the criteria in § 83.7 (a) through (c) and § 83.7 (e) are not mandatory requirements. The criteria may be met alternatively by any suitable evidence that demonstrates that the petitioner meets the requirements of the criterion statement and related definitions (25 CFR 83.6(g)).

Thus, the AS-IA can conclude that continuous recognition with a reservation is evidence to demonstrate criterion 83.7(b) and 83.7(c) even though it is not specified. However, it is necessary to determine the character of the state's relationship by a direct examination of the laws, policies and actions of the State of Connecticut, as was done in the Schaghticoke PF and in the Eastern Pequot and Paucatuck Eastern Pequot proposed findings and final determinations, not merely equate state recognition with the same trappings as Federal recognition.

Summary Evaluation Under the Criteria

Summary of the Proposed Finding

The Assistant Secretary issued a Proposed Finding on December 5, 2002, that the STN petitioner did not meet all seven of the mandatory criteria. The evidence available at the time of the PF showed that the STN petitioner and its antecedents met criteria 83.7(a) for identification as a Indian entity since 1900, (d) for providing a governing document, (e) for having a membership list and demonstrating descent from the historical tribe, (f) for not being members of an acknowledged Indian tribe, and (g) for not being the subject of legislation that terminated or forbade the Federal relationship, but that it did not meet the requirements for criteria 83.7(b) for community and 83.7(c) for political influence or authority from historical contact to the present, and therefore did not meet the requirements for a government-to-government relationship with the United States. Specific findings in the PF are summarized as an introduction to each of the seven mandatory criteria in the Summary Under the Criteria of this FD.

The following summary under the criteria for the FD is the Department's evaluation of all of the evidence in the administrative record to date.

Criterion 83.7(a) requires that

The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met.

Summary of the Proposed Finding

The PF found that the Schaghticoke were regularly identified as an American Indian entity in Federal and state documents, by local authorities, by academic scholars, and in newspaper articles since 1900, thus meeting criterion 83.7(a). The evidence indicated that the settlement at Schaghticoke developed primarily as an amalgamation of the Weantinock and Potatuck Indian tribes which existed at the time of first sustained contact with non-Indian settlers. Section 83.6(f) of the regulations provides that the criteria 83.7(a) through (g) shall be interpreted as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity. The Colony of Connecticut reserved lands for the Schaghticoke (already an amalgamated tribe) in 1736, confirmed the reservation in 1752, and appointed an overseer in 1757. The Schaghticoke have been a state recognized tribe, with a state reservation from colonial times until the present, a period of 268 years. There was no question that the many identifications throughout the 18th, 19th, and 20th centuries pertained to the STN petitioner and its antecedents.

The PF concluded:

There is no question that the myriad identifications, from which the above samples have been selected, which fall under multiple categories of the types of evidence that maybe used under criterion 83.7(a), pertain to the petitioner and its antecedents. Some focus more on one subsection of the petitioner than on others, but the identifications as such are clear.

The petitioner meets criterion 83.7(a) (STN PF 2002, Summ. Crit., 14).

Neither the petitioner nor the third parties addressed criterion 83.7(a) in the comments on the PF nor the response to comments on the PF. Some exhibits submitted for the FD provided additional external identifications of Schaghticoke as an American Indian entity from 1900 to the present, but need not be summarized here individually, since they merely provide additional evidence in support of an unchallenged conclusion.

The conclusion of the STN PF is affirmed: the petitioner meets criterion 83.7(a).

Criterion 83.7(b) requires that

A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

Summary of the Proposed Finding

The PF found that Moravian mission records (1743 through 1771), the continued existence of a distinct residential settlement, the repeated petitions by the group to the Colony and the State, and a detailed external enumeration of all members by name and age in 1789, demonstrated that there was a Schaghticoke community from the 1740's to 1801. Throughout the 19th century, the overseers' reports, the existence of a distinct geographical settlement to which off-reservation residents frequently returned, and the close kinship ties between reservation residents and non-resident members provided sufficient evidence to show that a Schaghticoke community existed until about 1900.

The PF found that a distinct reservation community which encompassed three main family lines (Cogswell, Kilson, and Harris) and their kinsmen who resided in the nearby region and who maintained contact with the reservation residents continued to exist from about 1900 to the 1940's. Only a limited portion of the total number of Schaghticoke descendants were involved; not all of the Schaghticoke descendants who were living at the time. This 'selectivity' provided additional evidence of social cohesion and that Schaghticoke identity and community was not based on descent alone. Although direct evidence concerning community after 1920 was limited, the continuous state recognition with a reservation provided additional evidence of community, which when added to the specific evidence in the record was sufficient to demonstrate that the criterion was met between 1900 and 1940.

The PF found that petitioner did not provide sufficient evidence of community from about 1940 to 1967 or from 1996 to the present. The available interviews provided insufficient or conflicting information concerning the maintenance of broad social contacts after 1940. The primary body of evidence for meeting community from 1967 to 1996 is the data which described the intense patterns of political conflict in these years described under criterion 83.7(c). Under the regulations, evidence for criterion 83.7(c) can be used as well for criterion 83.7(b) where that evidence describes circumstances that indicate that social communication is occurring and that social ties exist which influence the patterns of political conflict (STN PF, 2002, 20). Therefore, the evidence for political activity between 1967 and 1996 was sufficient to provide evidence of community for the same years.

For the PF, the present-day community, as defined by the 2001 membership list, did not meet the requirements of 83.7(b) for two reasons: (1) important segments of the community described from approximately from 1967 to 1996 either resigned from the STN or declined to participate in the enrollment process that led to the 2001 membership list (about 60 individuals), and (2) almost one third of the membership (110 of 317), almost all descendants of one Kilson family subline, were enrolled for the first time in 1996. Therefore, the Schaghticoke petitioner defined at the time of the PF was not the same Schaghticoke group that had been defined by the evidence for the years prior to 1996.

The PF found that the STN failed to meet criterion 83.7(b) because of a lack of evidence for community for the years from about 1940 to 1967 and for the years from 1996 to the present.

The following is the Department's analysis of the data in the record and the new data sent in response to comments on the PF.

Schaghticoke from 1801-1850: evidence for community based on the 50 percent residency or 50 percent endogamy rates that would, if met, provide carryover evidence for 83.7(c).

Schaghticoke residential analysis 1801-1850.

The 25 CFR Part 83 regulations state:

83.7(b)(2) A petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided to demonstrate any one of the following:

.....

(i) More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community.

.....

83.7(c)(3) A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.

The PF concluded that the STN met criterion 83.7(b) from 1801 through 1850 based on evidence described under 83.7(b)(1), but that the evidence did not demonstrate 83.7(b)(2)(i) that provides carryover evidence for political authority and influence under criterion 83.7(c)(3) (STN PF 2002, 15-16). The analysis of evidence in the PF was not based on the provisions of criterion 83.7(b)(2)(ii).

The STN commented on this aspect of the PF by submitting a report entitled "Schaghticoke Residential Patterns and Cultural and Economic Traditions in the Nineteenth Century" (Austin 8/8/2003b). The petitioner's analysis began with a discussion the list of Schaghticoke Indians compiled by Ezra Stiles in 1789 (Austin 8/8/2003b, 2-5; see also Stiles 1789). The STN asserted that in 1789, there was only one "tribal member living away from the reservation on a relatively permanent basis" (Austin 8/8/2003, 3).

It is not safe to assume on the basis of the Stiles list that only one tribal member lived away from the reservation, since Stiles himself noted there were "four families on spot" and other documentation shows that people named by Stiles did not reside on the reservation. For example, a petition for a land sale from the late 18th century indicates that Eunice Wallops and her non-Indian husband resided in New York in 1782 (Fuller to CT Gen. Ass. 10/12/1782). Similarly, Benjamin Mawwehew, four-year-old son of Peter and Eliza (Chickens) Mauwee who were listed by Stiles as the "king and queen" of the Schaghticoke in 1789, died on September 2, 1790, in the Town of Cornwall (Hale Collection 10/25.1934) and another child of the same couple burned to death in 1795, also in the Town of Cornwall (Cornwall, CT, First Congregational Church, CT State Library Church Record Index, drawer 357). In 1799, Peter and Eliza petitioned for permission to sell 35 acres of land that they held near Kent in order to purchase lands "near their residence in Cornwall" (Mauwee and Mauwee to CT Gen. Ass 5/4/1799; CT Gen. Ass. to Boardman 5/1799).

In 1798, Timothy Dwight indicated that there were 16 wigwams in the residential settlement on the reservation (Dwight 1969, typescript excerpt). The May 6, 1799, petition of the Schaghticoke requesting that their land not be sold and the right to choose their own "conservator" annually was signed by twelve men (Mauwee *et al.* to CT Gen. Ass 5/6/1799). One of the signers was Peter Mauwee [Mauwee]. This petition is evidence of community in that Peter Mauwee and his wife were continuing to maintain contact with the reservation community even though residing in Cornwall, but it is not evidence that he was residing in a residential community for purposes of 83.7(b)(2)(i).

After the discussion of the Stiles list, the petitioner's residential analysis skipped to the 1860's and later (Austin 8/8/2003b, 6-18). In connection with this analysis, the petitioner stated:

There were a number of individuals who lived in a variety of places throughout the 1860s. When this is known to be the case, a person having Reservation residence at any point in the 1860s has been included as a reservation resident (Austin 8/8/2003b, 10).

This presumption stated here by the STN is not an accurate interpretation of the provisions of the regulations under 83.7(b)(2)(i). Indeed, the petitioner's own submission contradicts the above assertion and states that, "the percentage of adult Schaghticoke tribal members living on the Reservation in each decade had fallen below fifty percent by the 1880s" and that, "[t]his parallels the evidence for marriage patterns of tribal members, which also declined below the fifty percent mark in the 1880s" (Austin 8/8/2003b, 17).

The STN also asserted:

In the beginning of this paper, I presented evidence that during the nineteenth century, 183 tribal members lived to maturity (the age of 18 years). Of these tribal members, 126 had lived on the Reservation during their lifetimes (sixty-nine percent). This is well above the more than fifty percent required for sufficient evidence under 25 CFR 83.7(b)(2)(i) and 83.7(c)(3). Therefore, based on this and other evidence presented in these comments and the Tribe's earlier petition submissions, the AS-IA should conclude that the Tribe meets both of these criteria for the entire nineteenth century (Austin 8/8/2003b, 17).

The OFA re-analyzed that portion of the petitioner's data for purposes of determining carryover under 83.7(c)(3) for the 19th century. Data concerning temporary residency or visits to the reservation (Austin 8/8/2003b, 11) is useful in determining the second aspect of community under the regulations, as to whether the non-residential community maintained contact with the residential community; however, visitors and temporary residents are not included as part of the residential community for purposes of a 83.7(b)(2) analysis.

The OFA staff analyzed the residential data submitted by the petitioner, comparing it to other available documents. This analysis included additional information from the overseer's account books (Schaghticoke Account Book 1801-1807, Schaghticoke Account Book 1807-1833, Schaghticoke Account Book 1833-1852) and from the Federal census records. All dates in this table are on the basis of the best documentation available to OFA. (See Appendix I, Table 1.)

The data does show that throughout the first half of the 19th century, most of the Schaghticoke maintained regular ties with the reservation community and that, except for the temporary move of the Benjamin Chickens household to Chenango County, New York, about 1809-1810, most resided in either Litchfield County, Connecticut, or Dutchess County, New York, in towns contiguous to the Town of Kent, Litchfield County, Connecticut. Immediately prior to the opening of Abel Beach's Schaghticoke Account Books in 1801, the 1800 Federal census of the Town of Pawling (from which the Town of Dover was subsequently subdivided), Dutchess

County, New York, showed the households of Benjamin Chickens and Aaron Chappel. Local history narratives indicated that from 1800 to his death in 1856, the Abraham Rice family lived on Schaghticoke Mountain in the Town of Kent, probably on reservation land or former reservation land, but not in the Schaghticoke residential community itself. See the references to “moving of the Rice family living on the mountain 5 miles from the tribe” (Lavin 1967, 69; citing Overseer’s report 1867).

The residency data for the period 1801-1850 is not sufficient for a statistical analysis, because there is not adequate information concerning the size of the on-reservation and off-reservation population at any specific date, or even for any given decade, to determine whether more than 50 percent of the Schaghticoke were living in a residential community as defined in 83.7(b)(2)(i). The data in the table compiled by OFA indicates that most of the Schaghticoke earned their living by working off the reservation, in a variety of locations, but that they did maintain ties to the reservation community. Some families, such as those of Rufus Bunker and of Jeremiah Cogswell and his children, resided off-reservation on a permanent basis, either in Cornwall or, after 1840, increasingly in New Milford. However, as will be seen in the presentation of data concerning 1851-1900 below, some of the off-reservation families, including a portion of the Bunkers and Cogswells and a portion of the descendants of Abraham Rice, returned to the reservation after 1850, while other members of these families continued to be traced in the overseer’s reports. This data thus contributes to a showing of community for the period 1801-1850, but does not provide evidence under 83.7(b)(2)(i) for purposes of demonstrating political authority or influence under the carryover provision in criterion 83.7(c)(3).

Schaghticoke endogamy analysis, 1801-1850.

The 25 CFR Part 83 regulations state:

83.7(b)(2) A petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided to demonstrate any one of the following:

.....
(ii) At least 50 percent of the marriages in the group are between members of the group.

.....
83.7(c)(3) A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.

The PF concluded that the STN met criterion 83.7(b) from 1801 through 1850, but that the evidence did not indicate it met the criterion at the levels defined in 83.7(b)(2) that provide carryover evidence for section 83.7(c) (STN PF 2002, 15-16). The analysis in the PF was based on an analysis of residency (see above) and did not address the level of endogamous marriage

within the Schaghticoke between those two dates, which under 83.7(c)(3) also can provide sufficient evidence to met 83.7(c)(3).

The STN commented on this aspect of the PF by submitting a report entitled "Schaghticoke Marriage Patterns in the Nineteenth Century" (Austin 8/8/2003a). The STN asserted that, "the average rate of endogamy for the 1800s exceeds fifty percent" (Austin 8/8/2003a, 1). The paper provided an analysis of the marriages of Schaghticoke Indians from the list compiled by Ezra Stiles on October 7, 1789 (Austin 8/8/2003a, 3-11; see also Stiles 1789 in photocopy and two different transcriptions) and, in Appendix A, a "List of Marriages of Schaghticoke Tribal Members Extant from 1776 to 1899" (Austin 8/8/2003a, 20-27). This data was also subdivided into marriages extant 1800-1849, by decade (Austin 8/8/2003a, 28-32, Appendix B) and marriages extant 1850-1899 by decade (Austin 8/8/2003a, 33-37, Appendix C).

The STN asserted:

There were a total of 90 marriages extant for tribal members between 1800 and 1899. Of these, 53 were endogamous, one was culturally-patterned exogamy, and 36 were exogamous. This means that for the entire 100-year period, fifty-nine percent of tribal members' marriages were endogamous, one percent was culturally patterned exogamous, and forty percent were exogamous. This analysis indicates that the Tribe meets the sufficient level of evidence for community under the tribal acknowledgement [*sic*] regulations (83.7(b)(2)(ii)) and, therefore, has also met the requirements for 83.7(c)(3) (Austin 8/8/2003a, 12-13).

The OFA staff analyzed the endogamy data, comparing it to other available documents. This analysis added some relationships that must have existed for named Schaghticoke individuals, since the children of the individual were mentioned in the Schaghticoke overseers' account books (Schaghticoke Account Book 1801-1807, Schaghticoke Account Book 1807-1833, Schaghticoke Account Book 1833-1852).⁶ (See Appendix I, Table 3.) All dates are on the basis of the best documentation available to OFA. Many dates are approximate (after x or before y), based upon the birth of a child, a census, a last mention in the overseer's ledger, etc. The OFA analysis

⁶For purposes of analyzing endogamy, OFA has followed its previous practice of categorizing all known relationships that endured long enough to produce children as "marriages," whether or not there was evidence of a formalized union. Documented unions (formal or informal) that did not produce children are also included in the analysis.

eliminates some individuals included by STN⁷ and adds others, based upon the known birth of a child.

The PF already noted:

At least from the mid-1800's onwards, only certain descendants maintained contact with each other and the reservation. In each generation, only some of a given set of siblings had descendants who appeared on subsequent lists and descriptions of the Schaghticoke. Substantial numbers of others from the same sibling set did not participate, apparently no longer maintaining "tribal relations" with their relatives or other Schaghticoke (STN PF 2002 Summ. Crit., 17).

The endogamy analysis has taken that phenomenon into account in the following manner:

- If a Schaghticoke parent participated in Schaghticoke activities (was named in the overseers' records, signed petitions, etc.), then the marriages of the children, whether endogamous or exogamous, and whether or not that child subsequently maintained tribal relations, are included in calculating the ratios below.
- If a Schaghticoke individual who entered into an exogamous marriage continued to participate in Schaghticoke activities (was named in overseers' records, signed petitions, etc.), then the marriages of his/her children, whether endogamous or exogamous, are included in calculating the ratios below.
- If a Schaghticoke individual who entered into an exogamous marriage ceased to participate in Schaghticoke activities (was not named in overseers' records, did not sign petitions, etc.), then that individual is presumed to have abandoned tribal relations and the marriages of his/her children are not included in calculating the ratios below.

Thus, as an example, Charlotte (Mauwee) Vandore died in 1835, in tribal relations, since the Schaghticoke overseer paid the expenses of her funeral. One of her daughters never appeared in the Schaghticoke records; the other, Loraine (Vandore) Parrott was mentioned twice, the last time in 1865, although she lived until after 1900 and had descendants who continued to live in the Town of Sharon, Litchfield County, Connecticut, at least through 1915. OFA has made the presumption that this family severed tribal relations as of the date of the final mention in the

⁷For example, Levi Suckkonok has been omitted from these calculations, since it appears that he died at some time between 1799 and the opening of the overseer's account book in 1801; also Jo Peny and Eliza, since there is no evidence in the overseer's accounts that Eliza survived past 1800; John Peters and "Old Su" since there is no indication that the "Old Su" mentioned in the overseer's reports in 1825-1826 was the same woman whom Stiles had enumerated as Peters' wife in 1789. It would appear to be improbable that she was, since the presumption would make her 100 years old at time of death. Eunice Wallops is omitted because there is no available evidence that her non-Indian spouse, Brister Dion, survived past 1800.

overseer's records. Thus, the marriages of Charlotte's daughters are included in the endogamy calculations, but not the marriage of her grandson.

Rufus Bunker and his wife Roxa/Roxanna Mauwee, lived in tribal relations. The known marriages of their children, all of which were exogamous, are included in the calculation of the endogamy ratios, although only some of their children maintained tribal relations subsequent to their marriages.

However, Rufus Bunker's daughter Sarah, in the late 1830's, entered into an exogamous marriage with a man named van Rensselaer (given name not available from the evidence submitted). Sarah (Bunker) van Rensselaer did not appear in Schaghticoke records after the date of her marriage (although her brother Eli did for many more years) nor did any of her descendants appear in Schaghticoke records. Therefore, although evidence was submitted which included the names of some of her descendants, the marriage of her daughter is not included in the endogamy rate calculations below.

Similarly, Abraham "Ned" Rice and his wife Martha Chappel, lived in tribal relations. The known marriages of their children, all of which were exogamous, are included in the calculation of the endogamy ratios, although only some of their children maintained tribal relations subsequent to their marriages. After the death of Abraham Rice in 1856, his widow about 1867, and their daughter Sophia in 1870, no subsequent social ties between this family line and the Schaghticoke are shown in the evidence, although there were descendants in Dutchess County, New York.

Abraham Rice's daughter, Sarah Rice, entered into an exogamous marriage in the late 1830's with a man named William Henry Fowler. Sarah (Rice) Fowler appeared only once in Schaghticoke records after the date of her marriage (although her sister Sophia did for many years)(Overseer's Report 9/1965-12/1865), nor do any of her descendants appear in Schaghticoke records. Therefore, although evidence was submitted concerning the probate of Sophia Rice's estate that contained information concerning Sarah's descendants, the marriage of her daughter is included in the endogamy rate calculations below, but that of her granddaughter is not.

The major distinction in calculation methods, on which OFA's conclusions differ from those of STN, is that STN presumed that unknown, unnamed, individuals were Schaghticoke and contributed to the endogamy rate. OFA, in the absence of positive evidence that a marriage partner was Schaghticoke, has calculated the endogamy percentages on the presumption that unnamed partners were not Schaghticoke unless the partner was independently named in the overseer's account books (as "wife of" a named individual, for example). This is the most conservative method of making such calculations. The second distinction in calculation methods is that OFA included additional unions known from the documents to have produced children, although the second parent was not named or identified. (Also see Appendix I, Table 3, "Schaghticoke Endogamy/Exogamy Patterns 1801-1850.")

1800. On the basis of the data compiled and summarized in Appendix I, Table 3, which is based on the Schaghticoke overseer's records, vital records, census records, and other available evidence (see the more extensive "Remarks" under each individual in the FAIR database), the Schaghticoke had seven marriages extant in 1800; of those, six were endogamous and for the seventh (Aaron Chappel) there is insufficient evidence to determine which partner was Schaghticoke, nor is there evidence to exclude the possibility that both partners were Schaghticoke. This marriage has been included in the calculations as "presumed exogamous."

In 1800, the Schaghticoke had an endogamy rate of 85 percent (*i.e.*, at least 12 out of 13 or 14 married Schaghticoke were married to other Schaghticoke). This rate is sufficient to demonstrate community for the petitioner under 83.7(b)(2)(ii) as of 1800 and provides carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) as of 1800.

1801-1810. Of the endogamous marriages extant in 1800, three were terminated by the death of one partner during the decade 1801-1810, as was the "presumed exogamous" marriage that had existed in 1800. Three of the endogamous marriages that existed in 1800 continued until 1810.

During the decade, there were four new endogamous marriages (one of which ended before 1810), two new exogamous marriages or unions (one of which ended before 1810), and two "presumed exogamous" unions that resulted in the birth of a child (both of which were terminated by the death of the Schaghticoke partner prior to 1810).

Of those Schaghticoke who were married for some portion of the time between 1801 and 1810, 20 were in endogamous marriages and 5 in exogamous or presumed exogamous marriages. This would give an endogamy rate of 80 percent.

The STN asserted that the Schaghticoke endogamy rate for 1800-1809 was 87 percent (Austin 8/8/20031, 14).

OFA calculates that in the year 1810, there were six endogamous and two presumed exogamous marriages extant. Of the marriages extant in 1810, the endogamy rate was 85 percent. By either mode of calculation, the endogamy rate is sufficient to demonstrate community for the petitioner under 83.7(b)(2)(ii) as of 1810 and provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1801-1810.

1811-1820. During this decade, three of the six endogamous marriages extant in 1810 were terminated by the death of one partner.

During the decade 1811-1820, there were two new endogamous marriages (one of which was terminated before the end of the decade by the death of a partner), one new exogamous marriage, and eight marriages or unions which are presumed exogamous.

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STN asserts that the Schaghticoke had an endogamy rate of 77 percent for 1810-1819 (Austin 8/8/2003a, 14).

OFA calculates that of the Schaghticoke individuals who were married at some time during the decade 1811-1820, 16 lived in endogamous marriages, 2 lived in exogamous marriages, and 8 lived in marriages or unions presumed to have been exogamous. This provides an endogamy rate of 61 percent.

In 1820, the extant marriages consisted of 5 endogamous (10 individuals), 2 exogamous, and 8 presumed exogamous. This is a rate of 50 percent for endogamous marriages as of 1820.

By either mode of calculation, the endogamy rate is sufficient to demonstrate community for the petitioner under 83.7(b)(2)(ii) as of 1820 and provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1811-1820.

1821-1830. During this decade, one endogamous marriage extant in 1820 was terminated by the death of one partner. At least four presumed exogamous marriages existing in 1820 were terminated by the death of one partner; one was terminated by divorce.

During the decade 1821-1830, there was one new endogamous marriage (two individuals), one new exogamous marriage, and seven new marriages or unions presumed to be exogamous. For the decade, this provides an endogamy rate for new marriages of 10 percent.

The STN asserts that the Schaghticoke endogamy rate for 1820-1829 was 70 percent (Austin 8/8/2003a, 14).

OFA calculates that of the 30 Schaghticoke individuals who were married at some time during the decade 1821-1830, 12 individuals (6 couples) lived in endogamous marriages. This gives an endogamy rate of 40 percent.

In 1830, the extant marriages consisted of 5 endogamous marriages (10 individuals), 2 exogamous marriages, and 12 presumed exogamous marriages. This gives an endogamy rate of 42 percent.

While both of these rates remain substantial and provide evidence for the existence of community, they are below the level required to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1821-1830.

1831-1840. During this decade, one endogamous marriage extant in 1830, one exogamous marriage extant in 1830, and six presumed exogamous marriages existing in 1831 were terminated by the death of one partner.

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During the decade 1831-1840, there were two new endogamous marriages (one of which was terminated by the death of one spouse before 1840) and five new exogamous marriages. This gives an endogamy rate of 44 percent for new marriages for the decade.

STN asserts that the Schaghticoke endogamy rate for 1830-1839 was 57 percent (Austin 8/8/2003a, 14).

OFA calculates that of the 31 Schaghticoke individuals who were married at some time during the decade 1831-1840, 12 lived in endogamous marriages. This gives an endogamy rate of 35 percent.

In 1840, the extant Schaghticoke marriages consisted of 5 endogamous marriages (10 individuals), 6 exogamous marriages, and 6 presumed exogamous marriages. This gives an endogamy rate of 45 percent.

While both of these rates remain substantial and provide evidence for the existence of community, they are below the level required to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1831-1840.

1841-1850. During this decade, one exogamous marriage existing in 1841 was terminated by the death of one partner.

During the decade 1841-1850, there were three new endogamous marriages (six individuals), one new marriage with another Indian from New York, two new exogamous marriages, and four new presumed exogamous marriages. This gives an endogamy rate for new marriages for the decade of 44 percent.

The STN asserts that the Schaghticoke endogamy rate for 1840-1849 was 67 percent (Austin 8/8/2003a, 14).

OFA calculates that of the 35 Schaghticoke individuals known to have been married at some time during the decade 1841-1850, 19 lived in endogamous marriages. This gives an endogamy rate of 54 percent.

In 1850, the extant Schaghticoke marriages consisted of 8 endogamous marriages (16 individuals), 1 marriage with a non-Schaghticoke Indian, 7 exogamous marriages, and 10 presumed exogamous marriages. This gives an endogamy rate of 47 percent.

Both of these rates remain substantial and provide evidence for the existence of community. For the decade as a whole, the 54 percent endogamy rate is high enough to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1841-1850.

The pattern above is unique for cases thus far evaluated under the 25 CFR Part 83 regulations under criterion 83.7(b)(2)(ii). This is the only case in which endogamy rates appear to have dipped below 50 percent for a portion of the first half of the 19th century (1821-1840) and then to have subsequently risen to above 50 percent for the next three decades (1841-1870) (see below). Part of the explanation lies in the high number of "unknown, presumed exogamous" unions that took place in the 1820's. The other contributory factor is that in the 1830's, numerous children of off-reservation Schaghticoke families reached marriageable age and entered into exogamous marriages.

Schaghticoke from 1851-1900: evidence for community based on the 50 percent residency or 50 percent endogamy rates that would, if met, provide carryover evidence for 83.7(c).

Schaghticoke residential analysis 1851-1900.

1851-1860. The overseers' account book and reports for the 1850's and overseer Abel Beach's private ledger for the period 1842-1856, indicate that during this decade, the reservation or near-reservation Schaghticoke settlement in Kent, CT, included Eunice Mauwee, her daughter Lavina Carter, and, at least some part of the time, her granddaughter Laura (Carter) Skickett; John Mauwee; Joseph Mauwee; the household of Parmelia (Mauwee) Kilson, Parmelia's son Alexander Value Kilson and his wife Eliza Jane Kelly and children, Parmelia's daughter Caroline Kilson and her husband Albert Rylas and children, and the household of Truman Bradley (aka Mauwee) and his wife Julia A. Kilson and children; Marianne (Chappel) Kelly, Eliza Jane's mother, and Eliza Jane's two daughters, Mary Jane Kelly and Nancy M. Kelly. In 1852, Parmelia's son Joseph D. Kilson married Mary Jane Kelly; that marriage broke up and in 1857 he married her sister, Nancy M. Kelly, after which he moved to Michigan until about 1865. The 1852-1853 Schaghticoke overseer's report mentioned the above individuals plus Abigail (Mauwee) Harris, Antoinette [unidentified], and several members of Abraham Rice's family (Lavin 1997, 64; citing Connecticut, State of, Count of Litchfield, Superior Court 1855-1924 [JD 1853]).

The evidence of off-reservation residence for Schaghticoke individuals during the 1850's basically indicates that there was no large-scale restructuring: those families that had been in Cornwall remained there; those families that had been in New Milford remained there.⁸ (See Appendix I, Table 2.)

⁸It should be noted that the documentation submitted does not provide an exact place of birth for many Schaghticoke individuals, but only the state of birth as recorded in various Federal censuses. Similarly, within the Town of Kent, most of the vital records do not indicate whether the family resided on- or off-reservation.

Toward the end of the decade, the succession of overseer's reports to the Superior Court, County of Litchfield, become more regular (covering 1858-59,⁹ 1859-60,¹⁰ and 1860¹¹). These, together with the 1860 Federal census, permitted the attempt made in the PF to do a residential analysis for 1860 (STN PF 2002, 82-89). The PF stated, concerning 1860:

The current state of the evidence is not sufficiently firm to conclude that more than 50 percent of the Schaghticoke tribal members constituted a geographical residential settlement that, under 83.7(b)(2)(i) would be sufficient in itself to demonstrate community and would provide carryover evidence in regard to criterion 83.7(c) (STN PF 2002, 89).

This remains true, even with all the additional documentation submitted by the petitioner and third parties for the FD. The rate was in the upper 40th percentile, but not demonstrably above 50 percent.

Overseers' Estimates of Reservation Residency Rates, 1860-1900.

The first overseer's population estimate was provided in 1849 to DeForest by long-time (since 1801) overseer Abel Beach of Kent, Connecticut:

⁹1858-1859 Schaghticoke overseer's report: Vina and Eunice, Caroline, Parmelia, Laura, Loraine, Patty Mauwee, Rice family, Delia Rogers, John and Abigail, Rachel, Truman and wife, Value, Alma, Elihu, Skicketts family. Coffins for Elihu and Skicketts child (Lavin 1997, 65; citing Connecticut, State of, County of Litchfield, Superior Court 1855-1924 [JD 1859]).

OFA identifies these persons as: Lavina Carter, Eunice Mauwee, Caroline (Kilson) Rylus Potter, Parmelia (Mauwee?) Kilson, Laura (Carter) Skickett and family, Loraine Vandore, Patty Mauwee, Abraham Rice's family, Delia (Kilson) Rogers, John Mauwee, Abigail (Mauwee) Harris, Rachel (Mauwee) Harris, Truman and Julia A. (Kilson) Bradley, Value Kilson, Alma Mauwee wife of Elihu, and Elihu Mauwee - coffin.

¹⁰1859-1860 Schaghticoke Overseer's report: Vina and Eunice, Alma, Parmelia, John and Rachel, Robert, Rice family, Caroline, Mawee, Martha, Laomia (?), and Mrs. Bradley (Lavin 1997, 65; citing Connecticut, State of, County of Litchfield, Superior Court 1855-1924 [SC 1859]).

OFA identifies these individuals as: Lavina Carter, Eunice Mauwee, Alma Mauwee, Parmelia (Mauwee) Kilson, John [Harris or Mauwee?] and Rachel (Mauwee), Robert [unidentified], Abraham Rice's family, Caroline (Kilson) Rylus Potter, Mawee [unidentified, probably John], Martha [unidentified - Rice? or Martha/Patty Mauwee?], Laomia [probably Lavina Carter], Julia (Kilson) Bradley.

¹¹1860 annual report of Rufus Fuller, overseer of the Scatacook Tribe of Indians in the Town of Kent: Caroline, John, Delia Rogers, Elizabeth Chickens, Truman, Rice family, Alma, Parmelia, Rachel, Vina, Abigail, Bunker, Patty, Eunice and Ja (?) Cogshaw family, 9 February, shroud for Eunice Mauwee; April 10, coffin for Eunice Mauwee (Lavin 1997, 66; citing Connecticut, State of, County of Litchfield, Superior Court, 1860).

OFA identifies these individuals as: Caroline (Kilson) Rylus Potter, John Mauwee, Delia (Kilson) Rogers, Elizabeth Chickens [unidentified], Truman Bradley, Abraham Rice's family, Alma Mauwee, Parmelia (Mauwee?) Kilson, Rachel (Mauwee) Harris, Lavina Carter, Abigail (Mauwee) Harris, Eli Bunker, Patty Mauwee, Eunice Mauwee - shroud and coffin, Jabez Cogswell family.

The Scatacooks have yet a considerable tract of land on the mountain; too rough and woody indeed to be cultivated, but well adapted for supplying them with firewood. At the foot of the mountain, also, and between that and the Housatonic, they possess a narrow strip of plain, sufficient in size for gardens, watered by springs from the upper ground, and containing a few comfortable houses. The number of Indians remaining in the fall of 1849 was eight or ten of the full blood, and twenty or thirty half-breeds. A few are sober and industrious, live comfortably and have good gardens; but the great majority are lazy, immoral and intemperate. Many of them lead a vagabond life, wandering about the State in summer, and returning to Scatacook to spend the winter. Three or four are in the habit of attending preaching, and a few of the children go to school. Their funded property now amounts to about five thousand dollars, and for the last forty years, has more than paid the annual expenses of the tribe. [Footnote] For this information concerning the present condition of the Scatacooks I am indebted the politeness of their overseer, Mr. Abel Beach, of Kent (DeForest 1852, 420).

The population estimate is very approximate, giving a range of 28 at the low end to 40 at the high end. During the period from 1841 to 1849, Beach's Schaghticoke account book and private ledger had named 16 Schaghticoke adults who have been documented as still alive in 1849.¹² Twenty-four other Schaghticoke who were adults as of 1849 were named in later overseers' reports and other records and would bring the total number of adults to forty,¹³ omitting three women who were no longer maintaining tribal relations.¹⁴ Only 18 Schaghticoke children are known to have been alive in 1849.¹⁵

Between the 1860's and 1900, the various Schaghticoke overseers, in their annual reports, presented several estimates of the group's population, in some cases estimating the portion living

¹²Alma Mauwee, Eunice Mauwee, John Mauwee, Elihu Mauwee, Patty Mauwee, Jacob Mauwee, Abigail Mauwee, Joseph Mauwee, Julia (Kilson) Bradley, Rachel Mauwee, Truman Mauwee/Bradley, Parmelia (Mauwee) Kilson, Alexander Value Kilson, Lavinia Carter, Joseph D. Kilson, Laura (Carter) Skickett.

¹³Nathan and Jabez Cogswell and their four sisters (Eliza, Emily, Ann, and Rosetta), the Rice family (Abraham, Martha (nee Chappel), and adult children Sophia, Charity, and Levi), Rufus Bunker (adult children Betsey, Luman, Eli, and Clara), Albert and Caroline (Kilson) Rylas, and the remaining two adult children of Parmelia (Mauwee) Kilson (Delia J. and Mary Ann), Henry Harris, Marianne (Chappel) Kelly and her daughter Eliza Ann (Kelly) Kilson, and Loraine (Vandore) Parrot would complete the approximate count of known Schaghticoke adults as of 1849.

¹⁴Sarah (Bunker) van Rensselaer, Sarah (Rice) Fowler, and Melissa (Vandore) Harris.

¹⁵Two children of Truman and Julia (Kilson) Bradley; two children of Value and Eliza Jane (Kelly) Kilson; Eliza Jane's two daughters Mary Jane and Nancy M. Kelly, three children of Nathan Cogswell, three children of Jabez Cogswell, one child of Eliza Cogswell, and five children of Loraine (Vandore) Parrot.

There were two other girls (Fowler and van Rensselaer) whose mothers were no longer maintaining tribal relations and who are omitted from this count.

on the reservation. In both 1860 (Lavin 1967, 65) and 1861 (Overseer Report 9/14/1861), the overseer estimated 52 persons belonging to the tribe, but did not indicate how many were on the reservation. The estimate for 1865 was 54 persons (Overseer Report 9/15/1865).

In 1870, the overseer stated: "So far as known there are about 50 persons belonging to said tribe - Harvey T. Roberts a member of the tribe died May 19 aged about 36 [30?]" (Overseer's Report 9/30/1870). In 1871, the overseer again said that there were "about 50" tribal members; the 2 deaths he noted for the reporting year 1870-1871 were Sophia Rice, who died in Amenia, Dutchess County, New York, and Joseph D. Kilson, whose death took place in Kent (Overseer Report 9/18/1871).

The reservation population listed on the 1870 Federal census was 24 persons, which, if the overseer's membership estimates were correct, would provide a residency rate of 48 percent.

A decade later, the overseer stated: "There are 42 members, none having died the past year" (Overseer Report 9/28/1880); the 1881 report listed 44 members (Overseer Report 9/1881). The 1880 Federal census showed 25 Schaghticoke (and two non-Indian spouses) living on the reservation. Therefore, if the overseer's estimates were correct, there would have been a residency rate of 57 percent in 1880. However, as shown in the following analysis, there is reason to believe that the overseer's estimates of total Schaghticoke population for 1880 and 1881 were too low.

Names that appear in the overseer's reports give a reasonably reliable identification of the non-resident Schaghticoke whom the overseer may have been taking into consideration when making his estimates during these years, and the reports for the remainder of the 1880's add several more people who were adult at the beginning of the decade. The 25 Schaghticoke on the reservation in 1880 were:

1880 Federal Census, Town of Kent, Litchfield Co., CT

June 10th, 1880, Enumerator: F. A. Mallory, P.12, SD #1, ED #17

H: #124 F: #130

Kilson, Valuc	H	I, 55y, married, BP CT, f & m BP-CT, Occ: works on farm	
Eliza A wife	I	64y, married, BP CT, f & m BP-CT, Occ: keeping house	
Emma dtr	I	32y, single, BP CT, do [<i>sic</i> , ditto]	
Mary Ett dtr	I	29y, single, do	
Bertha Watson gdtr	I	5/12, do	
Charles son	I	26y, single, do, Occ: works on [coal b]	
Frederick son	I	24y, single, do, Occ: works on farm	7
Kilson, Nancy	H	W ¹⁶	42
Lyman	son	I	20
George A.	son	I	19
John W.	son	I	14

¹⁶Nancy M. (Kelly) Kilson was a tribal member and the widow of Joseph D. Kilson.

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Edward E.	son	I	13		
Minnie L.	dtr.	I	10		
Jerome	son	I	7	13
H: #125 F: #132					
Harris, Henry	H	I	62	BP CT self, f & m, Works on Farm	
Abigail	wife	I	52	BP CT self, f * m, Keeping House	
James	son	I	30	BP CT do	
Sarah	wife	W	27	BP CT do Keeping House	
Willie	son	I	2	BP CT do	
Elsie	dtr	I	1	BP CT do	18
Cogswil, George H					
Sarah	wife	I	33		
Willis	son	I	13		
Frank	son	I	11		
Julia	dtr.	I	6		
Archa	son	I	2	.....	24
Carter, Leovina	H	I	72	.....	25

Those found off-reservation on the 1880 census are as follow (continuing the running total):

1880 Federal Census, Town of Kent, Litchfield County, Connecticut		
Legrand Kilson, 12, in unrelated household	.....	26
Julius Skickett, 24, in unrelated household	.....	27
1880 Federal Census, Town of Cornwall, Litchfield County, Connecticut		
Nathan Cogswell household	.....	28
1880 Federal Census: Sharon, Litchfield Co., CT ED: 16, p45/303		
24th day of June, 1880		
H: 432 F: 454 Doyle, Catherine 65y, w...		
Kilson, Ida 13y, w, single, BP CT self & parents, servant...	.....	29
1880 Federal Census, Town of New Milford, Litchfield County, Connecticut		
1880 Federal Census T9: New Milford, Litchfield Co., Ct, tenth day of June, 1880.		
#215 #268		
Cogswell, Jabez I(ndian), m, 71y, mar., laborer, worked 3 mos,		30
	BP self & parents CT	
Marcia A. I ¹⁷	f, 53y, wife, keeping house, do	
Eliza I	f, 14y, at home do	31
Donaldson, Mary	f, 21y, servant, at home, BP self & parents NY	
1880 Federal Census T9: New Milford, Litchfield, CT, seventh day of June, 1880, p.14-15		
#130 #159 Beardsley, George, wh, 51y, Saloon Keeper...		
02. Cogswell, Chauncy, I, m, 19y, S, Bartender,		32
	BP self & parents CT...	

¹⁷Identified as non-Indian by other documents; no indication that she was Schaghticoke.

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A few households down:

#135 #164					
37. McGill, William	W	m, 23y, mar, laborer, BP Ireland			
38. " Hattie	Mu	f, 20y, wife, mar., keeping house, BP CT	.....	33	
39. " Myrtie	Mu	f, 01y, dtr, BP CT for self & f, BP f-Ireland			
40. Frank, Betsey	Mu	f, 80y, Boarder, widow, at home, BP CT			
#136 #165					
41. Frank, Lazarus	Mu	m, 53y, mar., laborer, BP CT			
42. Mary Ann	Mu	f, 48y, wife, keeping house, do	.....	34	
43. (J) Barnes	Mu	f, 18y, dtr, at home, do	.....	35	

1880 Federal Census, Town of Trumbull, Fairfield Co., CT

June 1 ED123					
H2 F2: Truman & Julia Bradley Mu	.....			37	
P324					
F3: John & Francis J. [Bradley] Smith Mu					
Florence					
Edith					
John	.....			41	
F4: Joseph H. & William T. Smith Mu ¹⁸	.....			42	

June 3 ED 123, Indian H4 F4:					
George, Lillie, ¹⁹ Alonzo & Carrie Bradley	.....			45	

P327					
June 21 ED 123, Mixed: H1 F2:					
Rachel Mauwy, Indian	.....			46	

Household #8; Family #8:					
Potter, Caroline E., Indian, Female, 58y, Keeping House					
" Walter S., Indian, Male, 30y, son, Laborer					
" Sidney, Indian, Male, 21y, son, Laborer	.....			49	

1880 Federal Census, Goshen, Litchfield County, Connecticut					
1880 Federal Census T9: Goshen, Litchfield CO., CT					
4th day of June, 1880, Enumerator: J.W. Brooks					
#66 #74 Bunker, Eli I(ndian), m, 76y, widow, farmer, BP self & parents CT	.....			50	
NB: Living alone					

1880 Federal Census: Fairfield, Fairfield Co., CT, June 3, 1880: T9 Roll 95, ED: 139, p. 5/3
H: 43 F: 43
Rodgers, Reuben 53 y, b, m, farmer, BP CT self & parents

¹⁸See discussion of this census entry in the PF for better identification of the household members. Joseph H., marked as Smith on the census, was Truman and Julia's son Joseph Henry Bradley; William was apparently their grandson William Cogswell (duplicate entry).

¹⁹George Wesley Bradley's wife was non-Indian.

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Delia ²⁰	wife	52 y, b, f, BP CT self & family, keeping house	
William	son	15 y, Mu, m, BP CT, at school	53
Ella	dtr	12 y, Mu, f, BP CT, at school	53

Additional mentions of nine adults in the overseer's reports for the 1880's:²¹ 62

This larger number (25 on-reservation of a total 62 persons who have been identified as maintaining tribal relations as of 1880) would give a residency ratio of 40 percent in 1880. While the residency rate is certainly high enough in 1880 that it contributes to a finding of community at the levels of evidence under 83.7(b)(1), it is not high enough to provide carryover evidence for political influence or authority under 83.7(c)(3).

Henry Roberts' final report in 1884 stated: "As far as I know there are now living about 65 members. Have made an effort to find them out: but having become so scattered, it is almost impossible to learn their number. There are now living on the Reservation from 20 to 25" (Overseer's Report 7/1884). This would give a residency ratio of between 31 percent and 38 percent.

The ledger kept by the next overseer opened on September 11, 1884 (Overseer Ledger 1884-1914). Martin Lane's first extant report stated: "As far as I can learn there are about fifty (50) members altogether they are so much scattered & mixed it is almost impossible to give an exact account of them." (Overseer's Report 8/5/1886), but in August 1888, his estimate was lower: "As far as I can learn there are 40 members. Since they became so scattered it is almost impossible to learn their exact number." At the end of the decade, Lane wrote: "As far as I can learn there are about 60 belonging to tribe some half bloods and quarter bloods only a small portion full bloods" (Overseer's Report 8/1890). Toward the end of the 1890's, Lane, who was still the overseer, wrote: "About 30 members on reservation and about as many more scattered about the state so near as I can learn. It would be almost impossible to get the exact numbers belong to this tribe" (Overseer's Report 10/15/1897).

Lane's 1897 estimate would appear to give a residency ratio of approximately 50 percent. However, the 1900 Federal census enumerated only 18 residents on the reservation. Moreover, while Lane's 1890 and 1897 totals of about 60 Schaghticoke were consistent with one another, they are not compatible with the census taken by Lane upon an order of Judge Gideon Welsh in 1902 (see below) which enumerated 126 Schaghticoke. Therefore, they cannot be used as a valid basis for a residential estimate. Either Lane was not including all the known off-reservation Schaghticoke descendants or he was including the off-reservation adults, but not the minor

²⁰Delia J. (Kilson) Rogers maintained tribal relations; there is no evidence that any of her children did so after their marriages.

²¹Mary Jane (Kelly) Kilson Abels; Mary Ann (Phillips) Cogswell; Mary Frances Cogswell, Helen Lossing (Skickett) Wilmot; Catherine Skickett; Charles Henry Harris, Rosetta Cogswell, E. Rogers (in New Haven, 1887); Treyphenia Frank.

children. There is no evidence in the submissions as to the method of calculation that he was using.

The STN asserts that “[t]he rate of reservation residence for adult tribal members in the 1870’s was fifty-four percent (27/50=.54)” (Austin 8/8/2003b, 11). OFA has not confirmed this percentage, nor attempted to, since the requirement for carryover to 83.7(c)(3) is not the percentage of adult members, but rather the percentage of members as a whole. The known residential pattern for the 1870’s is one which supports other documentation that indicates that while the Schaghticoke remained in contact with one another, but the residency rate is not high enough to provide carryover for 83.7(c). The percentage of Schaghticoke residents on the reservation declined during the 1880’s and 1890’s, as noted by the petitioner’s comments (Austin 8/8/2003b, 17).

Schaghticoke endogamy analysis 1851-1900.

The PF concluded that the petitioner met criterion 83.7(b) from 1851 through 1900, but that the evidence did not indicate it met the criterion at the levels defined in 83.7(b)(2) that provide carryover evidence for criterion 83.7(c) under 83.7(c)(3) (STN PF 2002, 16). The analysis in the PF was based on a residency analysis [see the provisions of 83.7(b)(2)(i) discussed above], and did not address the level of endogamous marriage within the Schaghticoke between these two dates.

The OFA staff analyzed the endogamy data for the second half of the 19th century submitted by STN (Austin 8/8/2003a, 14-19, 33-37). STN’s analysis focused heavily on the marriages of those Schaghticoke who signed a petition in 1884 (Austin 8/8/2003a, 16-19).

OFA compared STN’s listing to vital records and other available documentation. This resulted in the removal of some couples from STN’s analysis²² and the addition of others – especially the remainder of the pre-1900 marriages for all known children of the 1884 petition signers (See Appendix I, Table 4, “Schaghticoke Endogamy/Exogamy Patterns 1851-1900.”) All dates are on the basis of the best documentation available to OFA. Many are approximate (after x or before y), based upon the birth of a child, a census, a last mention in the overseer’s ledger, etc.

1851-1860. During this decade, two existing endogamous marriages, one presumed exogamous marriage, and one exogamous marriage ended.

²²The OFA analysis omits some marriages included by STN. For example, in Appendix C (Austin 8/8/2003a, 33-37), STN included a marriage for Eunice Mauwee and Peter Sherman as continuing until 1860, although their own data showed Sherman’s death in 1812; similarly, it includes a continuing marriage for Luman Taber Mauwee and Sarah, although he died before November 1834; one for Marianne Chappel and Thomas Kelley, although he died before 1831; the marriage for Rufus Bunker and Roxanna as continuing until after 1860, although Roxa/Roxanna died in 1842. The reader should assume that OFA has tacitly corrected similar identified errors.

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Between 1851-1860, Schaghticoke individuals entered into three endogamous (five individuals) and four exogamous marriages. One of the endogamous marriages ended in divorce prior to the end of the decade; the Schaghticoke man remarried, again to a Schaghticoke woman, prior to the end of the decade, reducing the number of total individuals in the count by one. This gives an endogamy rate for new marriages of 55 percent for the decade.

For the decade 1850-1859, STN asserted an endogamy rate of 70 percent (Austin 8/8/1903a, 15).

OFA calculates that of the 43 Schaghticoke individuals known to have been married at some time during the decade 1851-1860, 23 lived in endogamous marriages. This gives an endogamy rate of 53 percent.

In 1860, the extant Schaghticoke marriages consisted of nine endogamous marriages (18 individuals), one marriage with a non-Schaghticoke Indian, eleven exogamous marriages, and nine presumed exogamous marriages. This gives an endogamy rate of 46 percent.

These rates remain substantial and provide evidence for the existence of community. The new marriage rate of 55 percent and for the decade as a whole, the 53 percent endogamy rate are high enough to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1851-1860.

1861-1870. During this decade, one marriage of a Schaghticoke to another Indian and three presumed exogamous marriages were terminated by the death of one partner.

Between 1861-1870, Schaghticoke entered into one endogamous and three exogamous marriages, for a 25 percent endogamy rate for new marriages.

For the decade 1860-1869, STN asserted an endogamy rate of 72 percent (Austin 8/8/1903a, 15).

OFA calculates that of the 47 Schaghticoke individuals known to have been married at some time during the decade 1861-1870, 24 lived in endogamous marriages. This gives an endogamy rate of 50 percent.

In 1870, the extant Schaghticoke marriages consisted of 38 individuals living in ten endogamous marriages (20 individuals), twelve exogamous marriages, and six presumed exogamous marriages. This gives an endogamy rate of 53 percent.

Both of these rates remain substantial and provide evidence for the existence of community. For the decade as a whole, the 51 percent endogamy rate and for the year 1870 the 53 percent endogamy rate are high enough to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1861-1870.

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1871-1880. During this decade, three endogamous and three exogamous marriages were terminated by the death of one spouse.

Between 1871-1880, Schaghticoke individuals entered into 11 marriages, all of which were exogamous. Thus for the decade, the endogamy rate for new marriages is 0 percent.

For the decade 1870-1879, STN asserted an endogamy rate of 57 percent (Austin 8/8/1903a, 15).

OFA calculates that of the 48 Schaghticoke individuals known to have been married at some time during the decade 1871-1880, 20 lived in endogamous marriages. This gives an endogamy rate of 42 percent.

In 1880, the extant Schaghticoke marriages consisted of seven endogamous marriages (14 individuals), nineteen exogamous marriages, and six presumed exogamous marriages. This gives an endogamy rate of 36 percent.

Both of these rates remain substantial and provide evidence for the existence of community. The level of endogamy supports the evidence for political authority found in the PF by the signing of two petitions by the Schaghticoke in 1876 and 1884. However, the endogamy rate for this decade, however calculated, is below the level required to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1871-1880.

1881-1890. For the decade 1881-1890, so many of the known marriages into which Schaghticoke entered do not have ending dates that it was not possible to calculate the percentages in the manner above.

During this decade, Schaghticoke individuals entered into 15 new exogamous marriages. There was one temporary endogamous relationship that began and ended within the decade, producing no children. This was only six percent of the new marriages for the decade. OFA has presumed, lacking evidence to the contrary, that each new marriage continued to the end of the decade.

For the decade 1880-1890, STN asserted an endogamy rate of 45 percent (Austin 8/8/1903a, 15).

Because of the missing end-dates for marriages, OFA was not able to calculate a precise percentage. Two of the existing endogamous marriages may have ended during this decade (by death and separation), or may have lasted until after 1890. In 1890 there were four extant endogamous marriages, 19 extant exogamous marriages, and one presumably exogamous marriage for a maximum endogamy rate of 28 percent.

The endogamy rate is below the level required to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1881-1890.

1891-1900. During the decade 1891-1890, three endogamous and seven exogamous marriages ended by death.

Schaghticoke individuals entered into 13 new marriages or unions during this decade. Only one was endogamous, for an eight percent endogamy rate for new marriages. The endogamous marriage was a remarriage for a widow and widower (both previously married to other Schaghticoke), the groom aged 72 and the bride aged about 59.

In 1900, there was technically one other extant endogamous Schaghticoke marriage. However, the couple, married in 1867, was separated, and had been for several years; they were not, therefore, living in an endogamous marriage during this decade.

For the decade 1890-1899, STN asserted an endogamy rate of 41 percent (Austin 8/8/1903a, 15).

OFA was unable to calculate a precise endogamy rate for the decade because of missing ending dates for numerous relationships (see the complications noted above). However, as of 1900, only two of at least 27 married Schaghticoke were living in an endogamous marriage, for an endogamy rate of 7 percent.

The endogamy rate for 1891-1900 is below the level required to provide carryover to demonstrate political influence or authority for the petitioner under 83.7(c)(3) for the decade 1891-1900.

The Schaghticoke at the Beginning of the 20th Century

Community 1900 to 1940

The PF concluded that the petitioner met criterion 83.7(b) from 1900 through 1940 (STN PF 2002 Summ. Crit., 18). The primary bases were

the reservation community, which encompassed the three main family lines, and the extant kinship ties with others living nearby. Many of these were former reservation residents whose residence nearby continued the 19th century Schaghticoke pattern in which the community was centered on but not limited to the reservation (STN PF 2002, Summ. Crit., 18).

The PF evaluation also stated "Additional evidence for community is that the Schaghticoke up through the mid-1990's have not been a descendancy group but have only included individual descendants who are maintaining social relations. Continuous state recognition provides additional evidence here, where specific evidence of community exists" (STN PF 2002 Summ. Crit., 18). Supporting evidence for community for this time period was the continuous relationship with the State as a tribe with a reservation.

The STN responds:

In 1902, Judge Gideon Welch instructed the Tribal Overseer to make a census of the Schaghticoke Indians living in the State of Connecticut. The overseer spent three days collecting the census information (See Overseer's Account Book, 1902) The Overseer counted 126 tribal members. With such a precise number, the Overseer must have made an exact listing of tribal members, but that list has never been found.[n8] The Overseer's 1902 census of 126 tribal members comports very well with my estimate of 123 tribal members in 1900 (Community Report on the Schaghticoke Indian Tribe, 1900 to 1950; March 19, 2001). In the analysis done in this paper, 89 members were counted for the years 1900 to 1909. The difference is due to the elimination from the count of tribal members who left tribal relations before the decade began (Austin 8/8/2003b, 16-17).²³

Additional evidence submitted for the FD further confirms the conclusions of the PF that the Schaghticoke formed a community, part of which continued to reside on the reservation, between 1900 and 1920, and that other Schaghticoke, resident off-reservation, maintained social ties as part of the group. The additional analysis of residential and intermarriage patterns for the 19th century, which provided strong evidence for community, provides supporting context for the existence of a community in the first two decades of the 20th century. Additional documentary sources were provided referencing identification of a community on the reservation and recognizing the connection of reservation and non-reservation residents. Among these was a 1903 census of the Schaghticoke [cited above], prepared by the overseer at the request of the judge of the Litchfield Court of Common Pleas. It found "that counting all, there were 126 members of the tribe in the state, but very few of full blood" (Appeal for the Scatacook Tribe 5/14/1915). This may be the source of Speck's population figure of 125, with 16 residents (Speck 1903.08.15).

New evidence was submitted for the period 1930-1940.

The reservation continued to be occupied from 1920 to 1940, with the resident population declining in the 1920's and then increasing again beginning in 1934. A review of documentary evidence from this periods finds references to the Schaghticoke as an existing community (Indians Still State Wards 2/1/1929, Tantaquidgeon 1934b).

²³"The Tribe's research team has spent an extraordinary amount of time looking at Litchfield County court records in the Connecticut State Archives (Superior Court and Court of Common Pleas), as well as local and regional newspapers which might have published the list (Housatonic Ray, New Milford Gazette, Torrington Register, Litchfield County Enquirer, Newtown Bee, Hartford Courant, Bridgeport Herald and Post). The research team has also searched for Gideon Welch's personal papers at Yale University (where he was an alumnus), in the Connecticut State Archives, and in the Connecticut Historical Society. The team located the journal of Gideon Welch at Harvard Business School's library, but it turned out to be his personal farm business diary and did not mention the Schaghticoke or any other Indians" (Austin 8/8/2003b, 16-17n8).

The PF noted concerning the interview data concerning the existence of social relations that there was “some data which indicated that the generation born around 1900 knew everyone on the reservation, not just their immediate relatives” (PF 18). There was conflicting data concerning the generation born in the 1920’s and 1930’s, some of which indicated there was broad, interfamily line contact for at least some individuals in this generation. The interview data from this latter generation, who were adults or older children in the 1920 to 1940 period, provides some information concerning social contacts during the 1930’s. The relevant interview information from both generation is analyzed in the following section concerning the 1940 to 1967 period (see especially Ray 5/10/1982, Strever 9/26/1994, 11/8/1996).

Between 1935 and 1939, the Connecticut State Park and Forest Commission, then legislatively designated as Schaghticoke overseer, undertook the production of a series of genealogical charts (CT Ancestry Charts post 1935) on the descendants of Jeremiah Cogswell, Truman and Julia (Kilson) Bradley, Alexander and Parmelia (Mauwee) Kilson, and Henry and Abigail (Mauwee) Harris, with some additional, quite inaccurate, charts regarding possible descendancy from Eunice Mauwee (died 1860).²⁴ These charts did not attempt to trace the descendants of all the Schaghticoke who are documented in the 19th century overseers’ account books and annual reports. Neither did they exclude those descendants of the traced Cogswell, Kilson, and Harris families who were no longer maintaining tribal relations, although in a few instances, such as that of Minnie Louise (Kilson) Bixby, the researcher specifically noted that she “repudiated” Schaghticoke ties and did not cooperate with his research.

Consequently, while useful in tracing family relationships (if used with care), these charts cannot be used alone to define the effective boundaries of the Schaghticoke community or the nature of Schaghticoke membership in the late 1930’s. Their scope took in a considerably wider group of people than those who were participating in tribal activities.

Community 1940 to 1967

Summary of the Proposed Finding

The PF concluded that there was not sufficient evidence to demonstrate that criterion 83.7(b) was met between 1940 and 1967, but that the evidence “also did not demonstrate the validity of third party comments that community did not exist in this time period” (STN PF 2002, Summ. Crit., 18-19). The PF described substantial conflicts in the available evidence and stated that the “conflicting data from the 1930s into the 1960’s cannot be resolved with the presently available sources and the analysis conducted by the petitioner or by the Department and therefore does not provide evidence under criterion 83.7(b).” The PF stated further that “[a] more substantial, new

²⁴These charts were not limited to the Schaghticoke. SPFC also prepared genealogical charts for other Connecticut tribes at this time. Some annotations initialed “A.B.C.” indicated that one SPFC employee who participated in their preparation was Allyn B. Cook; other elements on the charts are found in the J.R. Williams notebook (Williams Notebook pre 1941).

analysis of the existing data, together with additional data, would be helpful in resolving these conflicts” (STN PF 2002, Summ. Crit., 18-19).

The PF recited some of the evidence demonstrating significant social contacts across family lines, and then described apparent negative evidence from interviews with Catherine (Harris) Velky. It noted that some of the data cited by the petitioner as evidence for community did not show social relations extending beyond immediate family groups and some interview data specifically denied that there were contacts across family lines. The PF also stated that “[d]escriptions of the initial meetings of the Schaghticoke organization created in 1967 indicated that the participants were not well acquainted with each other at that time” (STN PF 2002, Summ. Crit., 18).

The PF suggested that there was some evidence that the conflicts which were strongly evident after 1967 had also existed earlier, in this time period, which would provide evidence that a community existed (STN PF 2002, 128-130). The PF presented the preliminary conclusion that “[s]ome of the hostilities between individuals and family lines and sublines,” seen in the late 1960s and afterwards suggested that “the groups in conflict then had a substantial earlier social history together.” It noted that there was some direct evidence of earlier conflicts, stating that in “the limited record of the council led by Franklin Bearce,” there was some evidence of hostility in the 1950’s between the Kilsons and the HARRISES (STN PF 2002, 128). This evidence was noted as consistent with later conflicts, about which there was more detailed evidence.

State Comments Concerning Community from 1940 to 1967

The State presented an analysis of interview evidence concerning cross-family community and political relationships (CT *et al.* 8/8/2003, 62-69). These comments direct particular attention to the evidence from interviews with Catherine (Harris) Velky, which contain denials of social and political relationships, and assert that other interview evidence in the record supports her views.

STN Response Concerning Community 1940 to 1967

The STN submitted additional interviews, and more complete copies of interviews submitted in partial form for the PF, along with analyses in several different reports which dealt with community from 1940 to 1967 (Palma 8/8/2003, Lavin and Crone-Morange 8/4/2003, Table 1, Parts I and II, Supporting Documents (Timeline)). The STN also submitted some additional newspaper articles and other documents, which it included in its analysis (Lavin and Crone-Morange 8/4/2003, Supporting Documents).

Analysis

A review of existing and new data indicates that the evidence demonstrates that community did exist between 1940 and 1967. This analysis of social community is based on the overall body of interview evidence, together with relevant documentary evidence. The interview evidence has been evaluated carefully in terms of the manner in which interviews were conducted,

the basis of knowledge of the interviewee and the interviewees manner and motive of response (see discussion of methodology, EP FD 2002, 82). Evidence from these interviews that minimizes or denies social contact or political influence is dealt with here as part of the entire body of evidence (see also general evaluation and discussion of Catherine (Harris) Velky and Irving Harris interviews, above).

The interview data does indicate a decline in breadth of contacts especially after about 1950, for those of the younger generation, born from the 1930's to 1950's. Age differences were not fully subject to evaluation, since individuals alive between 1940 and 1967 are under represented in the available interviews, some of their number having died before they could be interviewed.²⁵

Neither the State nor the petitioner presented a full review of all of the interview information in the record concerning social contacts between 1940 and 1967. Rather, they both cite to specific interview statements and provide interpretations for them. For this FD, all of the interview cites by the petitioner and the State were reviewed, as well as uncited portions of the referenced interviews and other interviews in the record.

Up to the early 1960's there continued to be a small resident community with a multi-family background. Frank Cogswell, the last Cogswell resident on the reservation, died in 1953. The William Russell family (Harris) remained on the reservation until at least 1961. Members of the Bertha Kilson family remained on the reservation until the early 1960's.²⁶

Important evidence is found in information concerning the activities of the Bearce era council, which drew on all three main family lines, and various sublines, and was especially active from approximately 1940, continuing until at least 1964, not long before 1967 when Irving Harris began to reorganize the Schaghticoke. The documents of the Bearce era demonstrate social contact, as does the oral history of reservation meetings. The interview statements cited by the State as indicating that a distinct group did not exist in 1967, and that people at that point did not know each other (CT *et al.* 8/8/2003, 62-65), are not an accurate characterization, given the amount of contact in the previous 30 years in the Bearce era organization.

The inter-family line conflicts in the decade before 1967, and the continuation of these conflicts for a number of years after, also provides evidence of the existence of community for those year. As a result of additional data and analysis, there is greater evidence to show these conflicts, and a clearer picture of them, than there was for the PF. The additional evidence and analysis indicated that between 1958 and 1967, rather than being a period of inactivity, was one during which the STN leadership, united to that point, became divided into two parts, one led by the Cogswells,

²⁵The petitioner did not submit some interviews, cited in a draft petition narrative and evidently done by researchers in the late 1980's and early 1990's. Whether these interviews are still extant was not determined.

²⁶ The PF (PF FN 15) incorrectly stated that the reservation community had continued until the mid-950's and that it "became predominantly drawn from one of the three family lines by 1950."

who remained affiliated with Franklin Bearce, and the other led by Howard Nelson Harris. This division reflects these conflicts (see discussion under 83.7(c) of political processes in this time period, below). It accounts for some of the statements in interviews by Irving Harris and Catherine (Harris) Velky denying that there was much contact between families when Irving Harris began his efforts in 1967, indicating that they are in fact not accurate (see also the above discussion of the evaluation of Irving Harris' interviews).

New evidence and analysis for this FD clarifies that the conflicts were on-going in 1967, and described specific conflicts between 1967 and 1973 (see discussion under criterion 83.7(c)). Other evidence of the conflict is found in interview statements that indicate that the loss of the Harris housing on the reservation in 1913, exacerbated by the refurbishing of the old Harris house for the Kilsons by the Connecticut State Park and Forrest Commission in the late 1930's, was still a live issue in 1967.

Additional evidence for community is that the enrollments in 1949 to 1954 generally correspond with the defined families of Schaghticoke subsequently enrolled, between 1967 and 1973. The only variation is the inclusion of Bearce's own family, and one or two of the Johnson family who are kinsmen of the Cogswell but have not demonstrated Schaghticoke ancestry. The council in those years refused to enroll other non-Schaghticoke that Bearce had presented for enrollment (STN PF 2002, 144-5). The 1949 and 1954 enrollments, and enrollment refusals, provide supporting evidence that the social community was well defined in this time period, and that the group made a distinct from non-Schaghticoke. The implied definition of community is consistent with subsequent enrollments, and the overall Schaghticoke pattern of only including individuals who were part of the community, rather than enrolling by descendency alone..

Interviews with three individuals provide especially clear description of cross-family visiting in the 1940 to 1967 time period. These are interviews with Catherine Garriety (Riley) Strever (b. 1917), a daughter of Bertha Kilson; Gail Harrison (b. 1948), a descendant of Elsie Harris and sister of former chairman Alan Russell; and Russell Kilson (b. 1932) son of Earl Kilson, Sr. All were reservation residents for substantial periods of time, including most of the years in question. Almost all of the described contacts centered on the reservation itself, including multi-family gatherings on the reservation.

The materials from Russell Kilson, born in 1932 and a reservation resident until about 1960, were described in the PF. He described reservation visiting by various individuals, including Harris. The PF stated, concerning information from his interview that he "and Richard Velky, his cousin and a Harris, demonstrated knowledge of and contact with some of the Cogswells." Kilson clearly remembered frequent visits to the reservation by Howard Harris. The PF also noted that "Kilson's interview indicates he had a long-time familiarity with other members of the Howard Harris line as well."

Catherine Strever, daughter of Bertha Kilson Watson, was a long-time reservation resident. She described with some detail visits by Howard Harris and Charles Harris. She described Howard

Harris' reservation visits and how he had to get someone to drive him there. She described Howard Harris as bringing his wife and children and always visiting Bertha Kilson. She also made particular reference to Jessie Hennessey (sister of Howard Nelson Harris) as being very close with her mother, Bertha Kilson, as the latter's "the sister that she never had" (Strever 1994, 1996).

Gail (Russell) Harrison clearly describes regularly visiting with Frank Cogswell and his sister Julia Batie, and describes little gatherings and powwows held on the reservation in the 1950's which included other Cogswells such as the Parmalees (Harrison 11/19/1996). She refers to Batie as an "elder." She also stated that the Julia Batie and others came up to visit her mother. The interview did not expressly inquire into relationships with the Kilsons, but Harrison clearly knew the Earl Kilson family well from living on the reservation at the same time.

Two Cogswell individuals born in 1934 indicated that they visited the Russells on the reservation, further describing them as people that followed their family members as leaders (Cogswell Family 11/15/2001).²⁷ By comparison, as the State notes, these same two individuals indicated they were "not aware" of the Harrises living in Bridgeport, where both they and the Howard Nelson Harris family lived. Catherine Garriety (Riley) Strever also described contacts with the Cogswells, specifically referring to some of them in Bridgeport as having been leaders.

A major body of conflicting, negative evidence cited by the PF concerning community between 1940 and 1967 was the statements of Catherine (Harris) Velky, sister of the former chairman Irving Harris, who was active in Schaghticoke affairs from the 1950's up to the present. Catherine Velky indicated that at the time, in 1967, "we didn't know many other Schaghticoke" and otherwise denied there had been significant interfamily contact before that. The PF cited her statements, and the State's response to the PF did so as well. This FD concludes that her statements are not an accurate representation of community among the Schaghticoke between 1940 and 1967. The introduction to this FD contains a more detailed discussion of how information in her interviews was evaluated for this FD.

A review of the available interview materials indicates that Mrs. Velky's statements understate the degree of connection between Schaghticoke families in the 1960's. Catherine (Harris) Velky's statements that her family did not know other Schaghticoke is interpreted here to mean social relations were not entirely current, as in knowing each of the members of these families well, but not that they were unknown. The overall body of evidence, as discussed above, indicates that the families knew each other and maintained some degree of social connection.

The PF itself noted some inconsistencies in Catherine (Harris) Velky's interviews, noting that she suggests that Irving Harris had not previously known Claude Grinage, a Cogswell very active in

²⁷ As the PF notes, there is some evidence that the Elsie Harris descendants were somewhat distinct within the Harris family line (descendants of James Harris). This evidence is limited, but could indicate that some of the Harrises remained aligned with Bearce and his Cogswell supporters in the early 1960's after the leadership became split.

the early years of Harris' council. The PF noted that since Grinage had been active in the Bearced council, it was unlikely that Harris had not known him before. Similarly, the PF noted statements by Velky, and by Irving Harris himself, to the effect that Trudi Lamb, a Cogswell and active leader in the 1970's onward, was unknown to them and that she did not initially know the way to the reservation. As the STN PF noted, "Harris' claim in this statement that Lamb did not know the way to the reservation is incorrect, in light of her childhood visits to her aunt Julia (Cogswell) Batie on the reservation, but may be evidence that Harris did not know her before the meeting he describes, which would be approximately 1970" (STN PF, 130).

Even the statements of Irving Harris in the 2003 interviews, which take a negative view of social and political characteristics of the Schaghticoke for all time periods, clearly refer to the three families, and specific individuals in them, in describing the early meetings from 1967 to 1970 (Austin interview, 3). Harris' statements indicate that these families were known quantities, even if there may not have been close social interaction in the years immediately before 1967. Harris also indicates a clear knowledge of who was living on the reservation in the 1940's and 1950's, reflecting direct contact in that time period. Harris' view of the nature of the Schaghticoke group indicates that he is referring to a known group of families and is not describing a group made up of descendants, not previously connected, that he looked for and brought together in 1967. Harris also describes the Schaghticoke as "not a tribe" but "just a bunch of families." This description does not deny the existence of a community made up of a linked set of families but places the emphasis on the kinship basis for community rather than on an external definition of tribal community.

The phrase "bringing the families together" that Irving Harris uses to characterize his efforts to reorganize the Schaghticoke beginning in 1967, appears to refer to reconciling or overcoming conflicts between the three main lines, and even sublines within the James H. Harris line, rather than reestablishing social contacts. (See discussion of the conflicts involving the Hennessey (Jessie Harris subline) and further analysis of Irving Harris interviews under criterion 83.7(c)).

Some interview statements cited by the State, upon examination in the context of the entire interview, could not be definitely characterized as evidence against the existence of social contacts. For instance, the State cites an interview of Fred Parmalee, a Cogswell descendant, referencing interview statements that he did not know he was Schaghticoke until learning of it from the STN enrollment staff, apparently in the 1980's (Parmalee 11/7/1996, 2/26/2003; CT *et al.* 8/8/2003 comments at 64). While Parmalee's 1996 interview does include a statement of this character, his interviews clearly and in some detail describe visits as a child to the reservation and attendance at Indian gatherings with his grandmother, Julia (Cogswell) Parmalee. While the meaning of the statement cited by the State is not clear, the information in the interview makes it clear that Parmalee knew he was affiliated with the group. The interview does indicate that because of actions by his non-Indian father, who tried to limit his Indian contacts, he was not as close with even other Cogswells until he was an adult, and thus may have been somewhat out of social contact until he became an adult.

The State cites an interview with Doris (Clinton) Buckley (b. 1938), a Kilson descendant and a former resident of the reservation, who appears to have had limited contacts even with other Kilsos. However, she clearly indicates contacts with the Russells (Elsie (Harris) Russell line). One of her statements indicates that in 1967 Irving Harris, encountering her on the reservation, did not know she was a Kilson. However, she notes in the same context, correctly, that Harris at the time was trying to exclude the Kilsos from the group (Buckley and Buckley 10/19/1997). Buckley denies contact with the Cogswells on the reservation, even while she was living there, indicating her family rejected them because of color differences. Other Kilson interview evidence clearly indicates that Buckley's descriptions of inter-family line contacts by Kilsos are not representative.

The State notes that Maurice Lydem (b. 1941, Grace Harris line), describes limited social contacts outside of the Harrises during the period he was growing up (Kay (Kayser) Peck and Maurice Lydem 1996, Lydem 1999). His immediate family appears to have had somewhat more limited contacts than other Harrises. The specific pages cited by the State from an interview with Kay (Kayser) Peck, did not appear in the record, hence could not be evaluated (CT et al. 8/8/2003, 66 citing Kay (Kayser) Peck interview, Kayser and Lydem 11/14/1996).

The State cites interview statements from two interviewees which it characterizes as saying that Schaghticoke people from other family lines did not attend weddings and funerals (Kayser and Lydem 11/14/1996, CT et al. 8/8/2003). One of the quoted statements references only one specific incident rather than being a generalization by the interviewee (Pereiras 11/27/1996). Lack of cross-family attendance at weddings does not demonstrate that social community does not exist, since narrow attendance at weddings and funerals does not show that other forms of social ties do not exist. The STN quotes a statement from one of these interviews describing attendance at a Harris funeral by a person named "Howard" as evidence of cross-family line contact. It does not, as the petitioner claims, represent attendance by a Cogswell, but almost certainly refers to Howard Nelson Harris.

The STN response to the PF revisits, but does not focus on, the claim that New Milford was a substantial Schaghticoke community in its own right. The STN's analysis for the PF concerning New Milford does not differ significantly from the PF's conclusions. The PF concluded that there was a group of Schaghticoke there, but they were almost all drawn from the Cogswell line. Most of the evidence about New Milford concerned social relations within this family group, including social ties extending beyond New Milford itself. There were a few examples to show that the Birch family lived in New Milford for a period, and was in contact with the Cogswells.

The State quotes a number of interviews as describing visits to the reservation or elsewhere as being limited to members of the same family line as the interviewee (CT et al. 8/8/2003). The PF noted that the STN had also cited a number of such instances, and that the finding did not consider them, by their very nature, to be evidence of cross-family contacts. They are also not evidence which demonstrates a lack of such contact in other forms. Other interviews reviewed

for the PF described such cross-family contacts, as well as describe knowledge of the other families which reflected social contacts.

Finally, the State comments on the apparent lack of communal effort concerning the Schaghticoke cemetery as providing good evidence of a lack of community (CT *et al.* 8/8/2003, 68). The PF noted that there was little evidence to support the claim of communal work parties on the reservation in general or the cemetery in particular. However, the petitioner does show that over the years, a number of Schaghticoke individuals from these families, not living on the reservation, were nonetheless buried there, including some that had never lived there. The new evidence and re-analyzed evidence for the FD does not change the conclusion that between 1900 and 1967 there was not good evidence of communal efforts, as opposed to those of individual families, to maintain the Schaghticoke cemetery (e.g., D. Buckley 1997). This specific form of social relationship is not required to demonstrating community.

The State cites Catherine (Harris) Velky's statements concerning providing aid, as demonstrating that aid was not provided across family lines (CT *et al.* 8/8/2003, 64-65). The PF considered that evidence and also concluded that the petitioner's claim that aid across family lines was common had not been demonstrated. This specific form of social relationship is not required to demonstrating community.

The review for this FD also concludes that there is good evidence to demonstrate social contacts within each of the three major lines, in addition to inter-family line contacts. The sources cited above concerning inter-family-line contacts also cite intra-line contacts, both on and off reservation. There was good evidence concerning social contacts within the Cogswell line (see T. Lamb, and New Milford data cite interviews). Contacts within the James H. Harris line are shown by the interview with Gail Harrison as well as others. Contacts within the Kilson family line are described by Catherine (Riley) Strever (1994) and others.

Community 1967 to Present

The PF concluded that

The primary body of evidence for community between 1967 and 1996 is found in the data describing the intense patterns of political conflict, which is a type of evidence described in criterion 83.7(c). This information demonstrates frequent mobilization of most of the membership, most often along the lines of the major families or subdivisions of them. Evidence used for criterion 83.7(c) can be used as well for criterion 83.7(b), where that evidence describes circumstances that indicate that social communication is occurring and that social ties exist which influence the patterns of political conflict. Precedents for this are found in the Snoqualmie decision. Additional supporting evidence is the selective nature of the membership in the STN in this period (STN PF 2002, Summ. Crit., 20).

The PF concluded further that:

State recognition provides additional evidence for community between 1967 and 1996, through the combination of the evidence from political events, membership definition and other sources provides sufficient direct evidence (STN PF 2002, Summ. Crit., 21).

The STN did not present extensive comments specifically addressing community from 1967 to the present. The State and the Towns' comments do not directly address the PF conclusion that community had been demonstrated between 1967 and 1996, except for referencing the enrollment issues discussed below. The State's comments that the Schaghticoke conflicts were irresolvable and therefore a single political community did not exist are addressed under 83.7(c) (CT *et al.* 8/8/2003, 73-84).

The PF differentiated the 1996 to 2001 period because of the membership changes which meant that the community, as defined by the individuals listed on the 2001 membership list, included the J.D. Kilson descendants and did not include a substantial body of individuals who had been participating in the community in the previous decades.²⁸ Concerning this time period, the PF concluded in part, in reference to the latter, that

there continues to be a single political system which includes these individuals, though they are no longer enrolled in the STN. The absence of these individuals from the current STN membership list means that the current petitioner, as defined by its most recent enrollment, is substantially less than the entire community (STN PF 2002, 20). [Emphasis added.]

The September 28, 2003, membership list also does not include this substantial portion of the actual community. (See subsequent section, *Membership of the Schaghticoke Community within which there is Political Influence: 1996 to the Present*, describing in detail those not on the roll who are part of the social and political community).

The PF also concluded that community had not been demonstrated for 1996 to the present because of the inclusion of 110 descendants of Joseph D. Kilson on the membership list (out of a total of 317 members in 2001). This meant that a substantial portion of the membership had no known social and political affiliation with the Schaghticoke before 1996, although they are Schaghticoke descendants. Almost all of these have been removed from the STN roll (see extended discussion in the following section)

²⁸The PF provided further explanation of the use of the 1996 date as follows: "A specific beginning date for the present-day community is not given because the changes described occurred over a period of approximately six years, beginning with the requirement in 1995 for all STN members to re-enroll, and the addition of the Joseph Kilson descendants, which began in 1996 and extended to 1999" (PF 21, FN 18).

The PF did not otherwise address community at present. The evidence for community and political processes for 1967 to 1996, based on the nature of membership and the political processes in the internal conflicts, exists for 1996 to the present.

Joseph D. Kilson Descendants: the Lack of Evidence of Tribal Relations

Proposed Finding and STN Response

The PF concluded that about one third of the 2001 STN membership descended from Joseph D. Kilson (1829-1871) and that “[t]here is little evidence of their association with the rest of the Schaghticoke families, including other Kilsons, after the early 1900’s” (STN PF 2002 Summ. Crit., 21). A total of 110 individuals of the 317 individuals on the 2001 membership list used for the PF descended from this couple. Members derived from this subline were found to have first enrolled between 1996 and 1998 and to have attended some meetings from 1996 on. The PF concluded there was little evidence of their association with the rest of the Schaghticoke group after the early 1900’s, and no connection after 1996 other than attendance at meetings. The PF evaluation cited the inclusion of this large number of individuals in the membership as one reason why the STN did not meet the requirements of criteria 83.7(b) and 83.7(c) after 1996.

In a technical assistance letter to the STN, the OFA advised that the STN’s response needed to show that these people were “previously part of a Schaghticoke community that continued to exist,” provide “a full explanation of their enrollment,” or “remove the names of persons on the membership list who have not previously been part of the Schaghticoke group” (Smith to Velky 3/14/03).

The STN submitted a report which presented evidence that the descendants of Joseph D. and Nancy (Kelly) Kilson had not been maintaining substantial social and political relations with the Schaghticoke (Austin 8/8/2003c). This report generally supported the conclusions of the PF.

Analysis

The STN, in response to the PF and technical assistance meetings with the OFA, removed almost all of the Joseph D. Kilson descendants from its membership list. Ninety-eight of the 110 were removed.²⁹ Four other Joseph D. Kilson descendants died since they enrolled in STN, thus 102 Joseph D. Kilson descendants are no longer on the STN membership list. This is almost a third of

²⁹STN chairman Richard Velky reported in the minutes of the July 2, 2003, STN meeting that only “12 of 112 JDK family members” [sic] had attended a meeting on June 12, 2003, concerning removal from the roll. The minutes of the July 2, 2003, STN meeting did not include the names of the individuals who attended the June meeting. The minutes indicated some reportedly volunteered to remove their names from the STN membership. These same minutes reported that STN had received only one letter from any of the Joseph D. Kilson descendants, and in that instance, that man and his son refused to resign. The petitioner’s submission did not include that letter, minutes of the June 12th meeting, or a list of those attending.

the 2001 membership. Their removal from the membership list means that the membership list no longer includes a substantial body of individuals without past relationships to the group.

The petitioner did not remove eight individuals from one branch of Joseph D. Kilson's family tree: that of Howard Thomas and his immediate family.³⁰ In its report on the J.D. Kilson descendants and in several interviews, the STN provided some evidence that some contacts had been maintained by this particular family (Austin 8/8/2003c, 42-44). The evidence included oral history that Howard Thomas and his brothers had visited Kilsons resident on the reservation on a number of occasions. There was no evidence of contact with other Schaghticoke. Oral history that they had attended the 1939 powwow could not be confirmed. One member of this family has occasionally served on STN housing authority committee since 1996.

The OFA received a letter in July 2003 from a sibling of Howard Thomas in which the author claimed that he and his immediate family had the same level of contact with Schaghticoke as had Howard Thomas (O. Thomas, 2003). This information, if correct, would not substantially alter the factual picture presented in the PF or described in the STN's report. It does not show that a substantial number of individuals with close contact were excluded from STN membership or disenrolled from it. None of the Thomas family members cited above were included in the STN list of the "Historical Schaghticoke Community" that the STN identified as eligible for enrollment.

The July 2, 2003, STN resolution concerning the removal of the J.D. Kilson descendants refers to a membership standard requiring that a family have maintained tribal relations "on a substantially continuous basis, as determined by a lapse of such relations extending no more than two generations in a direct family line" (Resolution #K-03, 7/2/2003, 1) (see also discussion under criterion 83.7(d)). The PF did not define a specific point in time that a "lapse of tribal relations occurred," but was based on the entire body of evidence from residence patterns, interviews and other sources, which did not show any indication of social contacts with Schaghticoke other than immediate family by any descendants in this line after 1900, except for the presence of Nancy (Kelly) Kilson on or near the reservation until her death in 1920. New data indicating a few contacts by a few individuals after that point does not substantially alter this conclusion. The petitioner's report on this family line does not indicate that Joseph D. Kilson's daughter, Ida (Kilson) Thomas, the ancestress of 90 of the descendants involved, maintained tribal relations throughout her lifetime (Austin 8/8/2003c).

Analysis of the Effect of Enrollment Changes on Whether the Group Defined by the Current Membership List Meets Criteria 83.7(b) and 83.7(c) from 1996 to the Present

At the time of the PF, the Schaghticoke did not meet criteria 83.7(b) and 83.7(c) from 1996 to the present in part because a substantial portion of the actively involved membership, whose activities

³⁰One of Howard Thomas' sons has "removed," listed after his name on the 2003 certified membership list; however, his name is not on the list of names removed by the STN council action on July 2, 2003. He is included in the total count of names removed from the STN membership list. This brings the total number of Joseph D. Kilson descendants to 110.

helped demonstrate these criteria were met from 1967 to 1996, were no longer listed as members. The PF estimated that there were about 60 individuals who comprised this group (STN PF 2002 Summ. Crit., 20). This was not a precise number, but an estimate based on the identification of key individuals together with available information concerning the number of their immediate relatives.

An additional reason criteria 83.7(b) and 83.7(c) were not met between 1996 and the present was that 110 individuals from the Joseph D. Kilson line had been added to the membership beginning around 1996. The petitioner had not demonstrated that these individuals had been involved in the group for several generations (STN PF 2002 Summ. Crit., 21). (See the analysis above.) In evaluating the composition of the present membership, the removal of most of the Joseph D. Kilson descendants from the membership list means that the membership list no longer includes a substantial body of individuals without past relationships to the group.

The STN have also added 63 new individuals who were not on the 2001 membership list used for the PF (STN Council Resolution #G-03, 8/5/2003, STN Resolution #MR-03, 9/28/2003). They are almost universally close relatives of those on the 2001 list: 20 have a parent, 8 have a grandparent, 5 have a sibling (including half-brothers or -sisters), 9 have an aunt or uncle, 11 have a grandaunt or granduncle, 1 has a nephew, 1 has a child, and 11 have cousins on the 2001 membership list.

As a result of these changes, the current membership of the Schaghticoke consists of 271 individuals.³¹ However, there remain between about 42 and 54 individuals from the families in conflict with the current STN administration who are not on the STN petitioner's membership list. The STN claims that 15 individuals from the families that resigned from the STN or refused to re-enroll in STN have now applied for membership in STN and have been added to the roll as of September 28, 2003. The STN submitted letters from these individuals stating that they wanted to be enrolled with the STN and the STN passed a resolution adding their names to the membership list. However, nine of these individuals, all members of one family, sent a letter dated September 29, 2003, to the STN stating that they are members of the SIT, that they do not have any intention of joining the STN, and that they signed letters to STN "under misguided information from the Schaghticoke Tribal Nation. . . . Any documents with our signatures concerning membership to the Schaghticoke Tribal Nation should be null and voided" (Overend *et al.* to Velky, 9/29/2003.) These conflicting requests, made within days of each other and made in the last days before the petitioner's response to the PF was to be filed, do not provide sufficient evidence of these individuals' actual status with the STN.

³¹There are 273 names on the certified membership list dated September 28, 2003; however, there are two other women on that list who appear to be dually enrolled with the SIT. Dual enrollment is prohibited by the STN's constitution; therefore, these two women do not appear to be included in the total count of members certified by the STN. However, the STN's analysis of its membership includes these two women. The OFA also considers that they are a part of the STN membership, thus making the total number of members 273.

There remain substantial elements from the community and political system as it existed before 1996 that are not on the list, although clearly a part of the STN community. A substantial number of these individuals were enrolled at one time or another in the STN. About 30 of these individuals appear on the 1982 list of STN corporate members (STN 12/5/1982). The 1973 constitution identified corporate members as “authentic descendants who are over 16 years of age,” and that they have the right to vote. The 1980 constitution stated that all members over age 18 had the right to vote, but did not specifically define “corporate members.” The OFA reviewed the names and ages of the individuals on the 1982 list and found that with the exception of one child born in 1970, everyone on the list was over 16 years of age in 1982 (born before 1964).

Those not on the current STN membership list include reservation resident and former chairman Alan Russell and his daughter (two individuals: Alan was on the 1982 list), his sister Gail (Russell) Harrison’s family (five individuals: Gail was on the 1982 list), and his half-sister Marjorie (Russell) Overend’s family (at least nine individuals, see the letter cited above: Marjorie and six others were on the 1982 list). Former chairman/chief Irving Harris and his immediate family (five individuals: Irving was on the 1982 list) are not listed. Russell Kilson, reservation resident, leader and former council member for many years died after the issuance of the PF, but his children and grandchildren are not listed on the STN membership list (approximately five individuals: Russell and two sons were on the 1982 list).

Several members of the Cogswell family are not on the 2003 list: Truman and Theodore Cogswell, Jr., the sons of Truman Cogswell, a “sagamore” during the Bearce era, who held office themselves during the 1960’s (Cogswell Family Interview 2002; Cogswell to Bearce, pre-1960). Truman Jr.’s children and grandchildren are also not listed, in all approximately six individuals. Theodore, Truman, and Truman’s two daughters were on the 1982 list). Truman and Theodore also have four half-sisters who were on the 1982 list of corporate members; however, they are enrolled with Narragansett and the OFA does not have additional information on the sizes of their families or their participation in the STN social and political community at this time.

Shelley (Kayser) Nadeau, a member of the Schaghticoke Board of Directors in 1983 and council member between 1988 and 1992, and her immediate family are not on the STN membership list (at least five individuals: Shelley and one daughter were on the 1982 list).³² Shelley Nadeau and her mother Hazel (Williams) Kayser were participants in the political conflicts within the STN in the 1970’s and 1980’s. Nadeau has siblings on the current STN membership list.

The Ritchie family also descends from Truman Bradley (Bradley/Kilsons), but not from George H. Cogswell. Gary Ritchie is a former council member and he and his father were active in political conflicts in the 1970’s and 1980’s. There are perhaps 9 Ritchies now living: the STN

³²There are two other females surnamed Nadeau on the 1982 STN list, but the first names do not match those of Shelley’s daughters identified in the genealogical database.

identified 6 on the list of 42 “unenrolled community members.” Three of these individuals were on the 1982 list.³³

Two other branches of the Bradley/Kilson family, Harrison Andrew Johnson and his wife, Lillian B. Riley (second cousins who married in about 1922) had four family members on the 1982 list of corporate members (there are at least five members of the family living now). One descendant is on the STN membership list and one member resigned from the STN in 2000; two are on STN’s list of 42 “unenrolled tribal community members.” The STN includes this Johnson family in its list of “unenrolled tribal community members.” Ernest Johnson (brother of Harrison) had three family members on the 1982 list (perhaps four members of the family are living now) and one of his sons, Philip Johnson, is on the list of 42 “unenrolled tribal community members.” A discussion of the annual membership meeting and elections in 1979 which resulted in a new council noted that “Phillip Johnson (a non-Cogswell Julia Kilson descendant)” was one of the councilmen (STN PF 2002, 157). Philip Johnson sent a letter to the STN in September 2003 stating that he was resigning from the SIT and enrolling in STN. He was one new members identified in the STN’s September 28, 2003, resolution to add 15 names to the membership list.

Based on this analysis of the known sizes of these families, the OFA estimates that are perhaps 56 Schaghticoke who are not enrolled, including the 15 individuals who sent letters stating that they wanted to enroll in STN and then rescinded that request. Each of these 56 individuals were themselves on the December 5, 1982, STN membership list, or had a parent or grandparent on that list. This estimate is based on the names of the individuals identified in each family in the STN’s genealogical database; however, this database does not have complete information on each of the individuals and may not have the names of all of the children or grandchildren. The genealogical database also quite likely does not include the death dates of the individuals who were living in 1982, but are now deceased. Therefore, there may be a few more (by adding other children) or a few less (by subtracting the deceased), who are a part of the unenrolled Schaghticoke community.

The STN identified 42 individuals that it considered would likely qualify for membership (Austin 9/29/2003, 11-14 [Table 4]). All 42 individuals in the STN’s calculations are included in the 56 individuals identified by OFA. This STN list of 42 included the 15 individuals who sent letters to STN in September 2003 stating that they were resigning from the SIT and enrolling in STN; therefore, as of September 28, 2003, the STN included those 15 individuals in its membership, but not in its calculation of potential members. The STN analysis does not appear to include some of the children of the 42 or some siblings in the Johnson or Ritchie families that OFA included. STN also noted that some individuals on the SIT list stated they were moving out of state and did not want to belong to either Schaghticoke group, but did not name those individuals (Austin

³³There are nine members of the Eades family, who are cousins of the Ritchies, and who are identified in the STN genealogical database. None of the Eades were on the 1982 list, but some were on the 1980 membership list and membership lists after 1982. Four Eades family members resigned from the STN in 2000. The STN did not include the Eades in its list of 42 “unenrolled tribal community members.”

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9/29/2003, 6). The difference between 42 and 56 potential members who are considered a part of the Schaghticoke community is not significant and does not include or exclude families not previously seen to be a part of the whole community.

The Schaghticoques who are a part of the community and who were all in the STN at one time and were listed as corporate members on the December 5, 1982, list, but who are not on the 2001 or 2003 membership list all descend from the three main families of Harris, Kilson, or Cogswell, or from the Bradley-Kilsons (non-Cogswells). They all have close relatives on the STN 2003 membership list and more importantly have been actively involved in the STN political and social community.

Membership of the Schaghticoke Community within which there is Political Influence: 1996 to the Present

The STN membership list for the PF did not include a substantial portion of the actual social and political community. The activities of the individuals who did not appear on the list were an essential part of the evidence for the PF's conclusion that the STN met criterion 83.7(b) and 83.7(c) between 1967 and 1996. After 1996, these individuals either declined to re-enroll as the STN leadership required of all members, or subsequently relinquished membership. The reason for these actions was the strong political differences with the current STN administration. The absence of these individuals from the membership list for the PF was one of two reasons the PF concluded these criteria were not met from 1996 to the present.

The second reason that criteria 83.7(b) and 83.7(c) were not met was the inclusion on the STN membership list of 110 Joseph D. Kilson descendants (out of a total of 317 members in 2001) who had no known social and political affiliation with the Schaghticoke before 1996, although they are Schaghticoke descendants. For this final determination, the STN membership includes only eight Joseph D. Kilson descendants. The STN removed 98 Joseph D. Kilson descendants from its membership list, as submitted for the FD. Four others died after the 2001 membership list was compiled and their names were removed from the STN membership list, thus a total of 102 Joseph D. Kilson descendants were removed from the STN membership list.

The same substantial elements of the STN community and political system as it existed before 1996, that were not on the membership list for the PF are also not on the September 28, 2003, STN's certified membership list submitted for the FD. Although still part of the STN community, these individuals have continued to refuse to enroll or re-enroll based on their continuing disputes with the current STN leadership. STN negotiations with these individuals during the PF comment period did not resolve this conflict. The STN reported that these individuals have refused its attempts to encourage them to apply for membership in the STN under the benefit of the 2003 constitutional amendment identifying them as part of the "unenrolled tribal community." This refusal to enroll or re-enroll is a continuation of the political conflicts pre-dating 1996. There continues to be political interaction between these individuals and members and leaders of the STN.

The September 28, 2003, STN membership list reflects the most current stance of a conflict within the Schaghticoke that has continued for more than 40 years and at various points during those years has resulted in a divided and then a re-united group. The current certified membership list includes only part of the actual Schaghticoke political community because those in opposition to the current leadership have refused to re-enroll until certain political issues are resolved. Thus, the list only reflects part of the body in conflict.

The STN has created a second list of 42 “unenrolled tribal community members,” who, though not currently enrolled, it considers to be part of the “Historical Schaghticoke Community.” This list of 42 includes 15 individuals who, during the petition comment period applied for membership in the STN, 9 of whom rescinded their expressed intent to enroll with the STN.³⁴ The STN has indicated that it considers those on the certified membership list and on the list of 42 “unenrolled tribal community members” to be part of its political community. The STN has indicated should these 42 individuals apply for membership and submit the required documents, it is “reasonably certain” they would be accepted. Thus, the STN is indicating that these 42 individuals meet its membership requirements. Half of these 42 individuals were on the 1982 STN list of “corporate members,” and the other half had a parent or grandparent on that list. These 42 individuals are all closely related to enrolled members: the adult heads of the families on the list, such as Irving Harris, Gail (Russell) Harrison, Marjorie (Russell) Overend, David Kilson, Philip Johnson, Gary Ritchie, and Shelley (Kayser) Nadeau, have siblings, nieces or nephews, a grandson, first cousins, as well as other cousins, on the STN certified membership list. In preparing the list of 42 “unenrolled community members” the STN is indicating that its 2003 certified membership list is incomplete.

Based on specific information concerning social and political involvement with the Schaghticoke, as well as past enrollment, this final determination concludes that individuals and families on these two lists, the certified membership list dated September 28, 2003, and the September 28, 2003, amendment to the constitution naming 42 members of the “Unenrolled Schaghticoke Community,” are and have been part of the Schaghticoke community and that they participated in political processes within it. (See description above.)

The PF noted that “The Secretary does not have the authority to recognize part of a group” (citing the HEP final determination which acknowledged two petitioners as together forming the historical tribe) (PF 21, EP FD 2002, 13). In this instance, the AS-IA does not have the authority to acknowledge the STN as defined by the September 28, 2003, membership list without also acknowledging the unenrolled individuals on the second list, who are a part of the tribe that continues to exist.

³⁴This FD concludes that the 15 who submitted to the STN in September 2003, were not included in the STN’s certified membership list; therefore, they were not considered among the enrolled members of the STN at the time preparation of the FD began.

Past acknowledgment decisions considered the petitioner's membership list to define the community to be evaluated for acknowledgment. Other previous decisions have used a combination of membership lists to define the petitioner's membership, where one list was found to be incomplete for technical, political, or other reasons (e.g., Tunica-Biloxi, Snohomish, HEP, Principal Creek Nation). In one instance, active consideration for a decision was suspended, where the membership list was found to omit a substantial portion of the community (Narragansett).³⁵

This final determination considers the circumstance where the current membership list reflects a temporary political condition and concludes that this circumstance (similar to HEP) does not reflect the actual membership of the tribe that continues to exist. In evaluating the petitioner, this FD considers that, in addition to the current list, the STN has submitted a second list that includes the substantial number of individuals who have maintained a social and political relationship with the rest of the STN, who are therefore an integral part of the STN, although not presently formally enrolled with the STN. These individuals were part of the community considered to meet criteria 83.7(b) and 83.7(c) in the decades leading up to 1996 and continue to be part of that community, and its political processes, up until the present. This finding has described the particular political relationship, such as office holding and reservation residence, of each family group who make up this body of individuals. Most of the adults have been enrolled in the STN in the past, and most have close relatives on the current list.

The STN acknowledged by this decision includes the 273 names on the September 28, 2003, STN membership list together with the 42 names of the "unenrolled tribal community," specifically identified part of the "Historical Schaghticoke Community" in the STN in the September 28, 2003, amendment to the constitution.³⁶ Therefore, based on these two submissions and the evidence of social and political involvement described above, this FD finds that the combination of the two specific lists submitted by the STN, identifies the tribe being acknowledged and shall comprise the tribe's base membership roll. As the base roll, it identifies the STN's present membership for Federal purposes. Individuals on these lists will be considered to be members of the tribe unless they knowingly relinquish their membership after this decision is final and effective.

The OFA has identified approximately 14 other individuals (immediate family members), who are not on the STN certified membership list and not on the list of "unenrolled tribal community members." These individuals are identified in the STN's records and they appear to be a part of the unenrolled tribal community otherwise identified by the STN. This FD confirms their relationship to the STN. Thus, the AS-IA considers that these 14 individuals are part of the tribe

³⁵ Because of the District Court's scheduling order, suspension of consideration under 83.10(g), was not a viable option in this case.

³⁶ As the STN PF stated "The purpose of the regulations is to provide for the acknowledgment of tribes, not of petitioners per se" (PF 31, see also, similarly, the HEP FD).

being acknowledged. Should they choose to enroll, and they meet the STN's enrollment requirements, these individuals meet the requirements to be added to the base roll under 25 CFR 83.12(b). That section of the regulations defines the membership list of a tribe as acknowledged as becoming the base roll and states that

For Bureau purposes, any additions made to the roll, other than individuals who are descendants of those on the roll and who meet the tribe's membership criteria, shall be limited to those meeting the requirements of § 83.7(e) and maintaining significant social and political ties with the tribe (i.e., maintaining the same relationship with the tribe as those on the list submitted with the group's documented petition).

The Joseph D. Kilson descendants removed from the 2001 STN roll would not, on the basis of the information for this FD, be eligible for addition to the STN base roll.

The STN, defined by the two lists and the approximately 14 other immediate family members, meets the requirements of criterion 83.7(b) and criterion 83.7(c) from 1996 to the present.

Summary of Evaluation of Community under Criterion 83.7(b)

1900 to 1920

The PF concluded that the evidence in the record, together with continuous state recognition with a reservation, which provided additional evidence, was sufficient to demonstrate that criterion 83.7(b) was met between 1900 and 1940 (PF18-19). The PF cited "the reservation community, which encompassed the three main family lines, and the extant kinship ties with others living nearby." It noted that many of the off-reservation Schaghticoke were former reservation residents." Additional evidence for community was that "the Schaghticoke up through the mid-1990's have not been a descendency group but have only included individual descendants who are maintaining social relations" (STN PF 2002, Summ. Crit., 18).

The State and Towns did not submit extensive comments challenging the PF conclusion that community existed from 1900 to 1940. Their comments concerning community, based solely on the interview data, did not differentiate between time periods, but applied primarily to 1920 to 1960. The STN submitted some limited new interview and documentary data, as well as a re-analysis of existing data for 1900 to 1940.

Additional evidence submitted for the final determination confirms the conclusions of the PF that a portion of the Schaghticoke formed a residential community on the reservation between 1900 and 1920, and that other Schaghticoke, resident off-reservation maintained social ties as part of the group. The additional analysis of residential and intermarriage patterns for the 19th century for this FD, which provided sufficient evidence for community until 1870 and strong evidence for community for the balance of the 19th century, provides supporting evidence for the existence of

a community in the first two decades of the 20th century. Additional documentary sources were provided which identified a community on the reservation and recognized the connection of reservation and non-reservation residents. The off-reservation residents included individuals who had been born on and/or lived on the reservation, and close relatives of the reservation residents.

These forms of evidence combined provide sufficient evidence to demonstrate that criterion 83.7(b) is met from 1900 to 1920.

1920 to 1940

For 1920 to 1940 there was less specific evidence concerning community than there was for 1900 to 1920. The reservation continued to be occupied during these decades, although the resident population declined in the 1920's and then increased again in the 1930's. The State made appropriations in both decades for the Schaghticoke and passed legislation transferring supervision of the Schaghticoke from one state agency to another. A review of documentary evidence from this periods finds references to the Schaghticoke as an existing group. The PF noted there was "some data which indicated that the generation born around 1900 knew everyone on the reservation, not just their immediate relatives" (STN PF 2002, Summ. Crit., 18). There was conflicting data concerning the generation born in the 1920's and 1930's, some of which indicated there was broad, interfamily line contact for at least some individuals in this generation. The interview data from this latter generation, who were adults or older children in the 1920 to 1940 period, provides some information concerning social contacts during the 1930's, although this information has been analyzed here primarily concerning the 1940 to 1967 period. (See following discussion.)

Continuous state recognition provides additional evidence here, where specific evidence of community exists. Therefore, the STN meets criterion 83.7(b) from 1920 to 1940.

1940 to 1967

The PF concluded that there was not sufficient evidence to demonstrate that criterion 83.7(b) was met between 1940 and 1967, but that the evidence "also did not demonstrate the validity of third party comments that community did not exist in this time period" (STN PF 2002 Summ. Crit., 18-19). The PF cited substantial conflicts in the available evidence which could not be resolved with the "presently available sources and the analysis conducted by the petitioner or by the Department." The PF concluded that because the conflicts could not be resolved, the available information did not provide evidence under criterion 83.7(b) (STN PF 2002 Summ. Crit., 18-19). The PF stated further that "A more substantial, new analysis of the existing data, together with additional data, would be helpful in resolving these conflicts."

A thorough review of the existing data together with the new data submitted in response to the PF indicates that the larger body of the evidence, and the more reliable sources, demonstrates that community existed among the Schaghticoke between 1940 and 1967. A review of the oral

1967 to 1996

The PF stated that

The primary body of evidence for community between 1967 and 1996 is found in the data describing the intense patterns of political conflict, which is a type of evidence described in criterion 83.7(c). This information demonstrates frequent mobilization of most of the membership, most often along the lines of the major families or subdivisions of them. Evidence used for criterion 83.7(c) can be used as well for criterion 83.7(b), where that evidence describes circumstances that indicate that social communication is occurring and that social ties exist which influence the patterns of political conflict. Precedents for this are found in the Snoqualmie decision. Additional supporting evidence is the selective nature of the membership in the STN in this period (STN PF 2002, Summ. Crit., 20).

The STN did not present extensive comments specifically addressing community from 1967 to the present. The State and the Towns' comments do not directly address the PF conclusion that community had been demonstrated between 1967 and 1996. The State's comments that the Schaghticoke conflicts were irresolvable and therefore a single political community did not exist are addressed under 83.7(c).

The evidence for community and political processes for 1967 to 1996 was based on the political processes in the internal conflicts in this period, as well as nature of membership. This final determination confirms the conclusion that there is sufficient evidence for political processes for 1967 to 1996, adds additional evidence and analysis of conflicts which mobilized substantial number of members and showed contact between members. This adds additional evidence to demonstrate community. Therefore this final determination confirms that criterion 83.7(b) is met from 1967 to 1996.

1996 to the Present

The PF differentiated the 1996 to 2001 period from 1967 to 1996 because of the membership changes which meant that the community, in defined by the individuals listed on the 2001 membership list, included the J.D. Kilson descendants and did not include a substantial body of individuals who had been extensively participating in the community, and politically, in the previous several decades. Concerning this time period, the PF concluded in part that

there continues to be a single political system which includes these individuals, though they are no longer enrolled in the STN. The absence of these individuals from the current STN membership list means that the current petitioner, as defined by its most recent enrollment, is substantially less than the entire community. [Emphasis added.]

The PF did not otherwise separately address the present-day community. The evidence for community and political processes for 1967 to 1996, based the political processes in the internal conflicts, exists for 1996 to the present as well. The conflicts have continued up until the present, and social contacts have continued between the enrolled and unenrolled portions of the Schaghticoke community.

Conclusion

The evidence demonstrates that the Schaghticoke have existed as a community from first sustained contact until the present. The most recent STN membership list is incomplete and does not include substantial portion of the present community. This final determination concludes that the STN, including the presently unenrolled portion of the community, meet the requirements of 83.7(b).

Criterion 83.7(c) requires that

The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.

Summary of the Proposed Finding

The PF found that there was sufficient evidence in the record in the form of named leaders (Gideon Mauwee and Joshua Job Mauwee) and of the sequence of frequent petitions to the Colony [and later the State] with their content primarily focused on preservation of the land base, to show that the petitioner met criterion 83.7(c) for political authority or influence within the group from the colonial period until about 1801. The petitioner failed to provide evidence of political authority or influence for the period from 1801 to 1875: that the evidence did not show that there were leaders named by either knowledgeable outside observers or internal documents, that the State or overseer dealt with any named leaders, nor that the Schaghticoke petitioned the State during these years.

Two petitions, signed by a number of Schaghticoke Indians living on the reservation and some living off the reservation in 1876 and 1884 provided sufficient evidence that the group exercised some political influence or authority for that limited time period. However, the evidence available at the time of the PF did not demonstrate that the petitioner met criterion 83.7(c) from 1885 to 1967. There was almost no specific evidence of Schaghticoke political activity from 1900 to 1949: they did not submit petitions in connection with the appointment of overseers and the State did not consult with them regarding the appointment of overseers. There were no named leaders with whom the State dealt between 1900 and 1967. One State report, in 1936 (CTSPFC Minutes 1936), said that there were no leaders recognized by the Schaghticoke.

Although they were well known in the early 1900's to non-Indians for various reasons, there was no evidence in the contemporary records that James H. Harris (died in 1909) or George

Coggsell (died 1923) were leaders. None of the contemporary records described their activities or roles as leaders of the Schaghticoke, or provided substantial evidence that they exercised political authority, or carried out activities which met the definition of political influence in § 83.1 of the regulations. There was no good evidence in the record to support the petitioner's claim that Howard Nelson Harris was chief from 1920 to 1954. He was appointed to that position by the Schaghticoke council initiated by Franklin Bearce in 1949.

The PF found that between approximately 1949 and 1959, there was a governing body, called a "council" with named officers, that pursued a claim before the Indian Claims Commission and attempted to deal with the State in regard to housing on the reservation. This council came about through the efforts on Franklin Bearce, a non-Schaghticoke. There was some evidence to indicate that Bearce consulted with various Schaghticoke, Howard Nelson Harris in particular, but the evidence was insufficient to show that criterion 83.7(c) was met for that period.

From 1967 until approximately 1996, there was substantial evidence of political involvement of much or most of the Schaghticoke membership. There were named leaders and a series of conflicts that showed consistently broad involvement by members of the group which occurred multiple times over a period of almost 30 years. These conflicts indicated that issues and events were communicated within the membership, that there was controversy over valued group goals, and that most of the membership considered the issues acted upon to be of importance. Overall there was sufficient evidence in the record to demonstrate that the petitioner met the criterion for political influence or authority from 1967 to about 1996.

The PF concluded that the petitioner did not meet the requirements of criterion 83.7(c) from about 1996 until the present. Changes in the STN's membership which culminated in the 2001 membership list precluded a finding that political processes continued within the group. As discussed under criteria 83.7(e) and 83.7(b), former STN members who were not on the 2001 membership list had a strong history of past involvement in the group and were clearly part of the same group. The conclusion of the PF was that there was a single Schaghticoke political system that encompassed the STN membership and a substantial number of former members who were not members of the STN at the time of the PF. The regulations do not permit acknowledgment of only part of a group and the PF restated the Department's position that the Secretary does not have the authority to acknowledge parts of tribes.

In addition, the PF found that almost one third of the individuals enrolled in the STN had only been members since about 1996. There was no evidence to show that these new members had maintained significant social contact or more than a *pro forma* political relationship with each other or with the rest of the STN membership at the time of the PF.

The PF concluded that in the absence of any specific evidence of political processes and leadership, the state relationship did not in itself provide sufficient evidence for the Schaghticoke to meet criterion 83.7(c) between 1800 and 1876, 1884 and 1949, and 1960 and 1967. The state relationship did not add sufficient additional evidence to the specific evidence in the record

concerning the Franklin Bearce-led council, which pursued a claim before the Indian Claims Commission and attempted to deal with the State concerning housing on the reservation, for the period from 1949 to 1959 to demonstrate that the criterion 83.7(c) was met for that time period.

Therefore, the PF found that the STN did not meet the requirements for criterion 83.7(c) from 1800 to 1875, from 1885 to 1967, and in the group as it existed from 1996 until the time of the PF. Therefore, the petitioner did not meet criterion 83.7(c).

Comments in Response to the Proposed Finding

The three different “Skatecook” locations. The PF brought to the attention of the STN and interested parties the existence of three different colonial locations called Schaghticoke or some variant spelling of the term – one in New York, one in Berkshire County, Massachusetts, which was a subsidiary settlement of the Stockbridge Mohican, and the Schaghticoke antecedent to the STN in the Town of Kent, Litchfield County, Connecticut (STN PF 2002 , 38n31, 40). The STN in its comments on the interested parties’ response to the PF, “Response to Several Anthropological and Legal Issues Raised in Third Party Comments on the Schaghticoke Tribal Nation Proposed Finding,” alleged that in 1744 and 1745, its ancestors had participated in New York negotiations that led to a colonial treaty (Austin 9/29/2003, 26-31). The documents cited, however, pertain to the New York Skatecook, as was noted elsewhere in the same report (Austin 9/29/2003, 28-29n7). There is no evidence that the petitioner’s historical antecedents were parties to these or any other treaty negotiations. In any case, negotiation of a treaty with a colonial government is not equivalent to having a treaty with the Federal Government for purposes of 25 CFR 83.8. This claim neither adds to nor detracts from the fact that the petitioner’s antecedent tribe was a distinct tribal entity in the colonial era and met the requirements under 83.7(c) in that era.

Hearn Report. The petitioner’s response to the interested parties’ comments on the PF included a report by Donna P. Hearn, “Responses to the Granting and Sequestering of Connecticut Land During the Colonial Period, Origin of ‘The Country Lands’ and Related Land Issues with Respect to the Schaghticoke Tribal Nation Petitioner Group” (Hearn 9/29/2003).³⁷ This report, with the associated maps, focused primarily on a discussion of the colonial Connecticut “Country Lands” and the “Oblong,” which was a strip of territory in dispute between the colonies of New York and Connecticut. The report does not address directly the issue of how that territory dispute provides evidence that the STN meets the 83.7 criteria.

³⁷Rebuttal to the State of Connecticut, the Connecticut Light and Power Company, Kent School Corporation, and the Town of Kent, City of Danbury, Towns of Bethel, Brookfield, New Fairfield, Newtown and Ridgefield, Connecticut, and the Housatonic Valley Council of Elected Officials Comments on the Proposed Finding for Federal Acknowledgement [*sic*] of the Schaghticoke Tribal Nation Petitioner Group.

The interested parties' argumentation in regard to first sustained contact and tribal amalgamation.

The interested parties deny that the Schaghticoke Tribe as found from the 1740's to the present existed at the time of first sustained contact with non-Indian settlers (CT *et al.* 8/8/2003, 89-104; Housatonic Valley Coalition 8/8/2003, 6-12), and also deny that the Schaghticoke derive from or are a successor to any tribe or tribes that existed at the time of first sustained contact with non-Indian settlers (CT *et al.* 4/16/2002, 50; CT *et al.* 8/8/2003, 89; Housatonic Valley Coalition 8/8/2003, 8).

The arguments of the various interested parties are not entirely parallel, and will, therefore, be treated separately.

The STN responded to these points at some length, from an anthropological perspective, in its comments (Austin 9/29/2003, 8-11, 15-17).

For the purpose of reference, this FD has appendices listing the deeds and other documents which lead to the conclusion that the Potatuck (Appendix IIB) and Weantinock (Appendix IIA) existed at the time of first sustained contact, whether as separate tribes, or as bands or villages of a larger tribe, and that the two subsequently coalesced at Schaghticoke, incorporating some individuals from other tribes. The data is based heavily on the State of Connecticut's Indian Papers, which were conveniently summarized by Wojciechowski (Wojciechowski 1992).

Hypotheses of the State of Connecticut Concerning First Sustained Contact:

Connecticut states:

As respondents demonstrated in their initial comments on the STN petition, the Schaghticoke is not an historic tribe within the meaning of the acknowledgment criteria because, in addition to failing criterion [*sic*] (b) and (c), no such tribe existed at the time European settlers first appeared in the local area (CT *et al.* 8/8/2003, 89).

A petitioner's failure, at later points in time, to meet criteria 83.7(b) and 83.7(c) does not signify that no historical tribe existed at the time of first sustained contact. Under the 25 CFR Part 83 regulations, this is a *non sequitur*; there is no causal connection between these two issues.

Connecticut continues by stating:

Instead, the group of individual Indians and families who resided at the place called "Schaghticoke" in the mid-1700's coalesced from diverse locations and tribes long after there was a sustained presence of Europeans in western Connecticut (CT *et al.* 8/8/2003, 89).

This issue, which also is looked at in the section concerning tribal amalgamation, was addressed at length and rejected in the STN PF (STN PF 2002, see especially Description and Analysis of the Evidence 58-61).

Connecticut subsequently contends: "Because the Schaghticoke did not begin as a tribe, as defined by the acknowledgment regulations, the question of whether the seven criteria have each been met does not even have to be addressed to deny the petition" (CT *et al.* 8/8/2003, 89-90). This constitutes an *a priori* assumption on the part of the State. Under the 25 CFR Part 83 regulations, expedited negative findings may be issued under criteria 83.7(e), 83.7(f), and 83.7(g) prior to placing the petition on active consideration, if a review "indicates that there is little or no evidence that establishes that the group can meet" those mandatory criteria (see 83.10(e)). In regard to the STN petition, the BIA did not find that there was "little or no evidence" and thus a full evaluation under all seven criteria is appropriate.

Connecticut states: "As indicated in the Summary Evaluation Under the Criteria, BIA could not find evidence to conclude that the Tribe existed before colonial settlement" (CT *et al.* 8/8/2003, 91). Connecticut cites STN PF 2002, 14, 22. Neither of these pages supports such a statement. Connecticut continues: "Nor did BIA reject respondents' argument that colonists settled the local area before the emergence of a tribal entity at the Schaghticoke location. *Id.*"³⁸ The passage on page 14 did not address the question in terms of first contact, but rather applied to the issue of amalgamation (which is treated more extensively below).³⁹

The passage on page 22 of the PF basically started with a discussion of Gideon Mauwee. The PF did address the issue of earlier non-Indian settlement in the region, but elsewhere (STN PF 2002, 37 ff.).⁴⁰

³⁸"Respondents" is the State's term: the regulations refer to "interested parties" and "informed parties" (25 CFR 83.1).

³⁹The evidence indicates that the settlement at Schaghticoke developed primarily as an amalgamation of the Weantinock and Potatuck Indian tribes which existed at the time of first sustained contact with non-Indian settlers. The evidence does not support the contentions of Connecticut that the Schaghticoke settlement derived from a random collection of previously unconnected Indians. The argument of the Connecticut Municipalities that because no "Schaghticoke Tribe," so designated, existed at the time of first sustained contact with non-Indian settlers, the petitioner's antecedents do not meet the criteria, is also not sustained by the evidence, since the Weantinock and Potatuck, the two tribes or settlements primarily antecedent to the Schaghticoke, did exist at the time of first sustained contact. The combination of Indians from two or more related settlements into a single group under the pressure of non-Indian settlement does not mean that a petitioner fails to meet criterion 83.7(b) or 83.7(c) during the colonial period. [n11] Section 83.6(f) of the regulations provides that the criteria in 83.7(a) through (g) shall be interpreted as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity (STN PF 2002 Summ. Crit., 14).

⁴⁰Connecticut in one case omits part of STN's statement which was quoted in the PF. Connecticut says:

In regard to “The Legal Test for First Sustained Contact. 1. BIA Relied Upon The Incorrect Test” (CT *et al.* 8/8/2003, 90), Connecticut states:

Respondents set forth a detailed explanation of the legal basis for the first sustained contact test on pages 19-34 of their initial comments. That discussion need not be repeated here. Indeed, BIA has not disagreed with respondents’ statement of this test. There is, therefore, agreement between respondents and BIA that to qualify as a tribe, **a petitioner must show that it has existed continuously as a tribe from the point in time when there was sustained contact between any Indians (not just the petitioners) and colonists in the local area** (CT *et al.* 8/8/2003, 90). [Emphasis added.]

In order to properly respond to this issue, the following discussion first addresses the State’s assertion that the BIA did not disagree with its position.

The technical reports and summaries under the criteria in regard to petitions for Federal acknowledgment are not legal briefs which answer, point by point, every assertion made by the petitioner or interested parties. Rather, the procedure in preparing the technical reports is to evaluate the issue of whether or not the petitioner meets the seven mandatory criteria (83.7(a)-83.7(g)). If a portion of the narrative or exhibits submitted by the petitioner or third parties is not relevant to the criteria, it is not addressed. Thus omission of discussion is not to be construed as agreement with the party that submitted the narrative or the exhibit.

The 25 CFR Part 83 regulations contain the following material in regard to first sustained contact. The regulatory definition reads:

Sustained contact means the period of earliest sustained non-Indian settlement and/or governmental presence in the local area in which the historical tribe or tribes from which the petitioner descends was located historically (25 CFR 83.1).

This is supplemented by two additional definitions:

Indeed, to the extent the petitioner has addressed this issue, it has conceded that it was not until 1742, long after colonial settlement, that “it is possible for the first time to identify Schaghticoke accurately as a distinct tribe.” STN HR, at 24 (emphasis added) (CT *et al.* 8/8/2003, 92).

The petitioner’s full sentence (Lawson1997, 24), as quoted on page 54 of the PF follows.

The petition asserts that: “with the establishment of a Moravian missionary presence at Schaghticoke in 1742, it is possible for the first time to identify Schaghticoke accurately as a distinct tribe (most of the amalgamation of other groups has taken place), knowing at least who its baptized members were, with a distinct leader, Gideon Mauwec, and occupying a distinct area (as recognized by the Kent proprietors in 1738)” (Lawson 1997, 24) (STN PF 2002, 54).

Historically, historical or history means dating from first sustained contact with non-Indians (25 CFR 83.1).

Continuously or continuous means extending from first sustained contact with non-Indians throughout **the group's history** to the present substantially without interruption (25 CFR 83.1). [Emphasis added.]

The *Official Guidelines to the Federal Acknowledgment Regulations* state:

What are “historic” or “historical” Indian tribes?

These are tribes that existed when non-Indians settled in the petitioner's immediate territory – or parts of those tribes, or combinations of them. Basically, you can find them listed in standard reference manuals like Hodge, Swanton, or the Smithsonian Handbook (see the Appendix, which lists these books) (*Official Guidelines* 9/1997, 52).

For Federal acknowledgment, under the regulations, the basic issue is continuity of tribal existence from historical times to the present (for the Government's statements at the time of the issuance of the 1994 revised regulations, see *Federal Register* 59 2/25/1994, 9280, 9281, 9282). Each of the mandatory criteria, in some way, addresses that issue. In combination, the definitions clearly indicate that the phrase “first sustained contact” indicates first sustained contact between the historical antecedents of the petitioner and non-Indians: not first sustained contact between “any Indians (not just the petitioners) and colonists in the local area” (CT *et al.* 8/8/2003, 90). As found in the PF and affirmed here, the antecedents to this petitioner, the Weantinock and Potatuck, did exist at the time of first sustained contact. The regulations do not require that the amalgamized entity itself exist at first sustained contact, as long as its antecedents did.

See also below Connecticut's discussion of Felix Cohen (Cohen 1942, 271; as discussed in STN PF 2002, 44). The State's discussion of that topic combined the issues of first contact and tribal amalgamation. The PF reference to Cohen (STN PF 2002, 44) provides information relevant to the “first contact question” (CT *et al.* 8/8/2003, 98) in that it indicates that the rights which the colony of Connecticut acknowledged that its indigenous tribes had to their lands are evidence that the Potatuck and Weantinock Indians were tribes at the time of first contact. (See Appendices IIA and IIB in regard to the land purchases from the Weantinock and Potatuck.)

Hypotheses of the Housatonic Valley Coalition Concerning First Sustained Contact:

The Housatonic Valley Coalition's position, to some extent, includes the issue of the nature of amalgamated tribes within its discussion of first contact.⁴¹ It states:

⁴¹In their submission for the PF, the Connecticut Municipalities stated: “From the research conducted to date, it appears quite certain that the purported Schaghticoke Tribe did not come into existence until well after this region of Connecticut was settled. As a result, as a 'post-first sustained contact' tribe, the petitioner would appear

In the PF, BIA concluded that the STN meets the first contact test because it descends from the amalgamation of two historical tribes, the Weantinock and Potatuck. This conclusion is in error because the historical evidence does not support the existence of the Weantinock and Potatuck as separate tribes, nor their purported amalgamation, nor the continuity of the Schaghticoke as a tribal entity descending from either the Weantinock or the Potatuck (Housatonic Valley Coalition 8/8/2003, 6).

In regard to the existence of the Weantinock⁴² and the Potatuck,⁴³ see the discussion that follows below. Each had early mention in Connecticut records, with the deeds themselves designating certain individuals as sachems, and were discussed by historians long before the publication of Wojciechowski's compilation (Wojciechowski 1992).⁴⁴

Housatonic Valley Coalition continues:

Our initial comments did not rely upon so simplistic a notion as the fact that no tribe called "Schaghticoke" existed at first contact. Instead, our evidence established then [CT Municipalities 4/16/2002], and continues to confirm now, that the Schaghticoke tribe emerged for the first time (if at all) with no predecessor

to fail several acknowledgment criteria" (CT Municipalities Intro. Narr. 4/16/2002, 2).

⁴²Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 235-236. Document 4. August 9, 1702: Stratford deed. Pocono Wemett Mamameco Stupen Paquahon cush & hurst Indian proprietors of land ag ouantenack . . . former sale of 23 April 1671 ratified; Pocono his mark, nanhotuho his mark, wemett his mark, Cush his mark; Indian interpreter Paquahon his mark; Indian witnesses Siecus his mark, Metack his mark, mattecus his mark, poconos son, papepeto his mark Sachem of oantenock. Acknowledged 19 August 1702; recorded 22 March 1707/8. Source: Stratford Land Records (MSS), volume 2, p. 497. Inaccurate abstract in Orcutt 1886:29. May be an irregular deed, as it overlaps with the 8 February 1702/1703 Milford deed taken with permission of the General Assembly (Wojciechowski 1992, 236).

⁴³Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 202-203. Document 3. July 1, 1671: Stratford deed. Know all men yt wee Perainos and Cockapatus being right owners of a tract of land lying upon Potatuck River . . . bound of Pocanos land on the south wch is now sould unto Henry Tomlynson . . . Witness: Perainos his marke, Cakapetous his marke, Pockowimp his marke, Caushamoke Sachem his marke, Quaronunqui his marke, Weccopomis his marke; Apethis his marke. Source: Stratford Land Records (MSS), Volume 1, page 492.

27 October 1705, We ye principal proprietors to a certain tract of land belonging to potatuck Indians. . . Unto ens. John Mitchel of Woodbery in ye county of Fairfield . . . Tomseet, Chestonase/?, Cockaptoush, Cotsure, Wakumbom /?/ . . . Recorded 4 January 1710. Connecticut State Library, microfilm #1976, Woodbury, Conn. Register of Deeds, vol. 2, 1696-1718, p. 137 a2 (Schaghticoke Pet. Hist. Doc. IV/271).

⁴⁴Shoopack, Weinapouck, Docames, Paramethe, Wewinapuck, Chcqueneag, Papiream, Nokopurrs and Paconaus. It is witnessed by the interpreter, John Minor; and by Ebenezer Johnson, John Durand, Wonawak and Tomaseete . . . it was not recorded until 1756, . . ." in the 9th volume, p. 269 (DeForest 1852, 391). Orcutt also mentioned this sale (Orcutt 1886, 3).

tribe, in the mid-1700s long after the settlement of the local area. There is no evidence to the contrary offered by the petitioner, and as discussed below, the weak evidence conjured up by the BIA on this point is flawed and does not withstand scrutiny (Housatonic Valley Coalition 8/8/2003, 8) [Emphasis in original.]

The Housatonic Valley Coalition then challenges the basis upon which Wojciechowski (Wojciechowski 1992) concluded that “the Weantinock and Potatuck were independent tribes” “and not, contrary to the conclusions of most historians, simply divisions of the same tribe, centered around different villages” (Housatonic Valley Coalition 8/8/2003, 8; see more detailed discussion below under the issue of tribal amalgamation).

Otherwise, the Housatonic Valley Coalition asserts:

In addition to the absence of sufficient support for the conclusion that Weantinock and Potatuck were separate tribes, the evidence does not establish that the Schaghticoke represent the unbroken continuation of any tribal entity. The BIA apparently relies on Mauwee to establish the continuity of political leadership from the Weantinock to Schaghticoke, PF at 44, quoting Wojciechowski’s assertion that: “After Weramaug’s death in 1722, Mauwehu apparently took over the leadership of the Weantinock.” (Wojciechowski 1992, 47) (Housatonic Valley Coalition 8/8/2003, 11).

This section of the Housatonic Valley Coalition’s submission concludes, “There is no evidence that can establish Mauwee as a political leader of the Weantinock, and therefore there is no evidence linking the Schaghticoke to an unbroken continuation of an historical tribe. Thus, the Schaghticoke fail the first contact test” (Housatonic Valley Coalition 8/8/2003, 12).

In the above conclusion, the Housatonic Valley Coalition conflates several different provisions of the 25 CFR Part 83 regulations and questions of continuing links between Potatuck and Schaghticoke. There is no requirement, under the provisions for amalgamation, that a specific, named, leader of an antecedent tribe become the first named leader of the successor tribe. Thus the Schaghticoke does not “fail the first contact test” on the grounds that, “there is no evidence that can establish Mauwee as a political leader of the Weantinock” (Housatonic Valley Coalition 8/8/2003, 12).

In addition, there is deed evidence that shows Mauwee’s presence at Weantinock, signing with Weramaug, who was recognized as a leader of the Weantinock, prior to the 1740’s.⁴⁵ There is

⁴⁵Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 242-243. Document 8. June 19, 1716. New Milford Deed. We, Weramaug of Oweantunuck and Nepato of Knunckpacooke, Indian proprietors of the land that lies along Stratford Great River, northerly from Milford Weramaug’s mark, Nepatoe’s mark; witnesses; Jacob’s mark, Tanhook’s mark, Mauhehu’s mark, Simon’s mark.

certainly extensive evidence that Mauwee was a leader at Schaghticoke prior 1740's, at the time of the arrival of the Moravian missionaries, signing at least one petition along with Chere,⁴⁶ the

Knunckpacook was a locality on the river in Kent, or a little above. Source: Orcutt 1882b:104; Deed recorded in New Milford Records, Volume I, page 73; another copy in Connecticut Archives, Towns and Lands (MSS), Volume IV, pages 36-37. According to Orcutt (1882a:117) the full text contains the statement that Weramaug was "kinsman to Nepatoo."

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 243-244. Document 9. October 22, 1720: Deed of northern Weantinock territory. Waraumaug's Deed and Reserve. Know ye that Weromaug, Weraroquin alias Curlow, Nepatoo, Ahanyeam, Mawehew, Owound, Tawhood, Paconopeet, Tackahound alias John Wawnowgh, and Wassomaug, Indian proprietors and owners . . . to Windsor . . . hands Weromaug his mark, Mawehew, Paconopeet, Wearoquin, Wossomaug, Takahound, Nepatoo, Awhound, Wonwnough, Ahanjean, Towhook, Hartford, oct. 22, 1720. Colony Records of Deeds & Patents, Vol. 3. Source: Orcutt 1882a:118-119. Large parts of the present Towns of Warren, Cornwall, Canaan, Norfolk, Goshen and the surrounding area; reservation contained more than 20,000 acres.

Cockkenon and Mawwehuc owners sell land in New Fairfield, 24 April 1729, bound east on New Milford and the Housatonic River; west on New York, south on Mitchell's purchase, north on ungranted lands of this government. Witnesses; Catoukese, Wonpound, Jacob Curkey, Shoran, Quepy, ComCukeson, Ceape, Siecus, James, Shoen, Oceus. See discussion (DeForest 1852, 360; citing Papers on Towns and Lands, Vol. VIII, Document 4). DeForest included the eleven witnesses as among the owners, said they were styled in the deed, "the rightful owners of all unsold lands in the grant of New Fairfield" (DeForest 1852, 408).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 247-249. Document 11. April 24, 1729: Deed in the Sherman-New Fairfield area. We Cockkenon and Mauwehuc oners and proper proiators of all the unsold lands with in the Grant of new Fairfeild . . . bounded east on New Milford and the Ousetonack River, west on land under the gouernement of New York . . . Cockkenon his mark, Mawwehue his mark; witnesses: Catorukese his mark, Won pound his mark, Jacob Curkey his mark, Shonin his mark, Quepy his mark, ComCukeSon his mark, Ceape his mark, Siecuss his mark, Jomes his mark, Shoen his mark, Oce res his mark. Source: Connecticut Archives; Towns and Lands, First Series, Volume 8, Part 1, Doc. 4.

One local historian, in discussing Mauwehu and the 1729 sale of New Fairfield (Sherman), tied it to the Naugatuck Indians and the Moravian missionaries, stating that about the same year "Mauwehu and his people moved . . . to the Indian settlement at Schaghticoke, where some of his lineal descendants still remain" (Rogers 1907).

⁴⁶I Chere Werawmague of Scatacook in Kent in the County of Hartford and Colony of Connecticut sells his right, title, and interest in "one Certain pece or persell of Land Lying in Kent afforesd In a place Known by the Name of Weramaques Reserve" to Edward Cogswall of New Milford July 14, 1749; recorded July 18, 1749. Conn. State Library, microfilm #728, Kent deeds, vol.1 1735-1752, p.474 (Kent Deeds 1749).

The above sale has long been known to Connecticut historians: "As I have already mentioned, the natives early parted with the Indian fields; but they long kept a reservation at the falls in the Housatonic; and Weramaug also made another, of two thousand acres, which was comprised in what is now the society of New Preston in Washington. This last was sometimes called the hunting grounds of Weramaug, and was eventually sold (some of it, at least) by Chere, son of the sachem" (DeForest 1852, 394).

son of Weramaug [Ramaug].⁴⁷ Chere [also spelled Tscherry] himself settled at Schaghticoke, thus providing an independent thread of continuity between the Weantinock Indians and the Schaghticoke settlement. Mauwee continued to be acknowledged as a leader there in subsequent years.⁴⁸

For the FD, there is significant additional evidence pertaining to the history of Indians in northwestern Connecticut prior to the 1740's, including the Weantinock and Potatuck. One of these is John Minor's list of the Indians in Fairfield and New Haven counties, dated August 1703, submitted by both the petitioner and the State of Connecticut. Minor listed, separately, both "Potatuck Indians"⁴⁹ and "Oweantanuck Indians"⁵⁰ (Minor 8/30/1703), several of whom can be

⁴⁷Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 250. Document 13. July 17, 1741: Schaghticoke deed in the Kent area. We, Maweho, Tom Cuckson, James, Watau, Coness, Indians, all of Scaticook, well to John Read 200 acres of land on Stratford River . . . marks. Source: Orcutt 1882b:17; gives as source "the Land Records at Hartford" and mentions that Read traded this land with an Indian called Chickins in 1748 (see the commentary added to Appendix B, document 37).

In 1742, the Potatucks united with the Indians of New Milford in a petition to the Legislature for a school and a preacher; marks of Mowehu, Cheery and nine other Indians; states the number of the Potatucks at forty and that of the New Milford Indians at thirty, individuals (DeForest 1852, 353).

1742 petition to the Connecticut General Assembly for missionaries; together with Cheery, son of Raumaug; on behalf of the Indians at New Milford and Potatuck (Cothren 1854, 1:103). Co-signers: Mowchu, Job, Sam, Peeney, Simon, John Coksuer, Pukin, John Sherman, Cheery (Cothren 1854, 1:104).

"Among those, who were then baptized [1743], was the captain of Pachgatgoch, Maweseman, named Gideon in baptism, and a son of the Indian brother Isaac in Shekomeko. About two months before, the latter went to visit his father, whom he had not seen for eight years. But as he did not relish the Gospel, he soon felt himself uneasy at Shekomeko, and retired to Pachgatgoch" (Loskiel 1794, 43).

⁴⁸December 1746, Capten Mayhew and his Company Being and Dwelling in Caticoke annexed to Kent . . . Indens, to Hollister, Watson, and Stephens . . . Capten Mayhew, Samll: Coksuer, Job Mayhew, John Antency, Thos. Cukson, John Sokenoge (Connecticut State Library, microfilm #728, Kent, Conn. Register of Deeds vol. 1, 1735-1752, p. 381-382; Schaghticoke Pet. Hist. Docs. IV/275).

19 December 1746, lease for 999 years of a large tract extending from the Housatonic to the western bound of the colony: Capten Mayhew, Leftenant Samuel Coksuer, Jobe Mayhew, John Antency, Thomas Cuksuer and John Sokenoge (DeForest 1852, 413-414; citing Kent Records, Vol. I, p. 381).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 253-254. Document 17. February 16, 1749/50. Deed in the Kent area. I maywehew Sachum Indian of Scaticook annexed to Kent in the county of hartford . . . with the Con Sent of ye Company of Indians in sd Seat . . . to Samuel Alger of Dutchess Co., NY. Cосigned Job - Job Indian; penis [sic, Pene elsewhere]: PF P Indian. Source: Indian Paper (MSS), Second Series, Vol. II, Doc. 44.

⁴⁹Minor's 1703 list of Potatuck Indians -- 19 names, presumably adult males
List of the Numbr & Names of the Indians . . . Taken the 28th & 30th of August a d 1703 By John Minor . . . Potatuck Indians (FAIR CT-V007-D051; SN-V070-D0160; typescript, annotated as being from the Eva Butler Papers)

identified on early 18th century deeds as well. It should be noted that at the date of the 1703 list, by the calculations of Gideon Mauwee's age from the Moravian records (born ca. 1687), he would not have been an adult. Neither would he have been adult at the time the 1705 Milford

Tummasett
Nunnawacke
Wahmasunkoo
Youhyouwhy
Chesquaneag
Mawquash
Wawwequi
Nebowweh
Towwegameags
Naquttunggi
Towheag
Wussebunkeommun
Wussuggunnunk queen
Maonnuppowrett
Airechuwassuck
Cokesooraw
Cookepaddawash
Appoonee
Att h

⁵⁰List of the Numbr & Names of the Indians . . . Taken the 28th & 30th of August a d 1703 By John Minor . . . Owecantanuck Indians (FAIR CT-V007-D051; SN-V070-D0160; typescript)

Pomknsect
Paccannaz
Chuhabaux
Younggams
Apperock
Dowhooks
Wunnuppee
Mannetoos
Young pomkinseet
Wuttoggeseet
Whemutt
Promises
Cosumboss
Chanooss
Petawuppe
Chebamee
Qunkquttenett
Cowepay
Toummas

deed (Shamenunckqus to Mitchell 8/29/1705) was signed.⁵¹ Thus, the fact that he was not on the 1703 list and did not sign the 1705 deed does not indicate that Mauwee was not associated with Weantinock. Although Shamenunckqus sold as an individual proprietor, the names of the witnesses to his deed overlap with Minor's list and with the 1703 Weantinock deed for Little Nine Partners.⁵² These lists from 1703 and both prior and subsequent deeds establish the Weantinock and Potatuck, predecessor entities to the Schaghticoke, existed as tribes at the time of first contact.

⁵¹Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 239-240. Document 6. August 29, 1705. New Milford deed. I Shamenunckqus, alias Baptistoo, ye absolute proprietor to the fields at Weantanuck that was a late purchase made by ye honorable gentlemen of Milford, reserved for ye Indians improvement . . . signed: Shamenunckqus his mark, Chesquaneag his mark, Whemut his mark, Papetopo, alias Pompinkinseds; subscribed on the other side: Wannuppe his mark, Cuttouckes his mark, Mantooes his mother's mark, Papetapo, his squaw's her mark, Younggam's squaw her mark, Joman his mark, Appacoco his mark, Poquanow his mark, Yongans his mark. Source; Orcutt 1882b:10-11.

⁵²Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 236-239. Document 5. February 8, 1702/03: New Milford Deed. We Papetoppe, Rapiscotoo, Wampotoo, Hawwasues, Yoncomis, Shoopack, Parameshe, Nokopurrs, Paconaus, Wewinapouch, Do for ourselves and the rest of our friends the Indians sole proprietors . . . signed Papetoppe his mark, Rapiscotoo his mark, Towwecomis his mark, Wompotoo his mark, Nanhootoo his mark, Hawwasues his mark, Yoncomis his mark, Shoopack his mark, Wewinapouch his mark, Pocanus his mark, Paramethe his mark, Wewinapuck his mark, Chasqueneag his mark, Papiream his mark; witnesses Tomoseete his mark, Nonawak his mark. New Milford Town Rec. vol. ix, 269. Source: Orcutt 1882b:6-7. Initially recorded in the Milford Records (Lambert 1838:152); not recorded in New Milford until 1756; further discussion.

John Minor Senr and John Michell Senr both of lawfull age to give in evidence Being desired to give testimony to what land oweantanack Indians reserved for themselves when they sold land to the gentlemen of milford we say yt ye Indians reserved their formerly planting field Bounded easterly by the great river And [further description of the bounds] till they took in their then Burying place and from thence . . . And ye land within this bounds was not purchased from the Indians by milford gentlemen in their generall purchase---the truth of the above written evidences was sworn unto on the third of aprill 1713 in woodberry before me John Sherman Justice of the peace." Dated at the top 6/6/1715, when it was recorded at New Milford (Conn. State Library, microfilm #1148, New Milford, Conn. Register of Deeds, vol. 2, 1717-1778, p.23). [NOTE: This presumably pertains to the February 1703 deed and its provisions.]

There is also identifiable overlap between the above list of names taken in 1703 and the following deed: "Little Nine Partners." Richard Sackett was an active partner in this firm, and had a better knowledge of the lands than any other member of the company. Only two years previous he had obtained his grant for the Wassaic tract of 7,500 acres, to gain which he went to Woodbury, Conn., to get a deed or title from the Indian Proprietors as a preliminary step. In this deed it is described as a tract "near a place called Wishshing (Wassaic) beginning at a place called by ye Indians Querapoquett . . . Bearing date in Woodbury the fifth of November 1703. Wusumpe, Tamquash, Yon-sing-pom-kin-feet, Occumbus, Wyawaw, Yonghaus, a squaw in behalf of her sons." (Hunting 1897, 17).

Hypotheses of the State of Connecticut Concerning Tribal Amalgamation:

This FD affirms the conclusion and analysis in the PF that under 83.6(f), the combination of two or more related settlements into a single group under the pressure of non-Indian settlement does not mean that a petitioner fails to meet criterion 83.7(b) or 83.7(c) during the colonial period.

Connecticut states:

. . . BIA allows a petitioner to satisfy the first sustained contact test when it can show that, even if its current purported tribe did not exist at the time of settlement, it emerged as an amalgamation of groups from tribes that did exist at that point in time.

The meaning of this exception for an “amalgamated historic tribe” is of critical importance for the STN petition (CT *et al.* 8/8/2003, 91).

The presence of “amalgamation” in the regulations is not an “exception,” but reflects the general patterns of American Indian historical development. The regulations state:

The criteria in § 83.7 (a) through (g) shall be interpreted as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity (25 CFR § 87.6(f)).

The petitioner’s membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity (25 CFR § 83.7(e)).

Connecticut asserts that, “. . . the Proposed Finding invokes far too lenient an interpretation of the meaning of the amalgamated tribe exception” (CT *et al.* 8/8/2003, 93), arguing that, “the STN has failed to come close to achieving the kind of amalgamation that has served as the basis for acknowledgment in the past” (CT *et al.* 8/8/2003, 93). In this context, Connecticut refers to its submission for the PF (CT *et al.* 4/16/2004, 25-32) which cites from the Tunica-Biloxi PF, noting that the four tribes which fused into Tunica-Biloxi had “extensive documented contact with the French and Spanish authorities throughout the 1700’s (CT *et al.* 4/16/2004, 25-26). The same could be said for the contacts of the Potatuck, Weantinock, and Schaghticoke with Connecticut authorities throughout the 1700’s. This FD is consistent with precedent.

Connecticut also states:

Nothing BIA has set forth in the Proposed Finding explains how the STN can meet the principles established by these decisions. Even if BIA is correct that there were two separate tribes – Weantinock and Potatuck – the record would still have to show that there was continuity of tribal political and social processes and

conscious acts of amalgamation that occurred to create a derivative Schaghticoke Tribe (CT *et al.* 8/8/2003, 98). [Emphasis in original.]⁵³

If, in fact, the Weantinock and Potatuck were not separate, but merely two bands or villages of the same tribe, the entire “amalgamation” or “combination” question would vanish from consideration, because the post-1742 Schaghticoke would simply consist of one tribe which had, under the pressure of white settlement, relocated to a new residential site.

Connecticut asserts that:

By way of summary, BIA’s precedent firmly establishes that to qualify as an amalgamated tribe there must be affirmative evidence of conscious and deliberate acts of consolidation (CT *et al.* 8/8/2003, 94). [emphasis in original]

Connecticut also states:

In the Nipmuc formal technical assistance hearing held on January 3, 2002, Dr. DeMarce of BIA stated, “[A]malgamation is essentially the decision of two groups to come together.” Nipmuc Transcript, at 21. Ex. 14. Thus, to meet the test there must be evidence of this decision. (CT *et al.* 8/8/2003, 96).

Neither the regulations nor precedent require an express decision or “affirmative evidence of conscious and deliberate acts of consolidation.” Amalgamation can occur over time, as demonstrated in the Cowlitz FD. The STN PF and this FD conclude that the analysis of subsequent examples of representatives of two former groups acting together as one is sufficient to demonstrate amalgamation. Also, the Discussion and Analysis of the Evidence in the PF presented the documentation showing the consolidation of the Potatuck and Weantinock at Schaghticoke (STN PF 2003, 44-54). This evidence is sufficient to demonstrate amalgamation, not withstanding the formal meeting transcript. Written evidence of a decision is not required (25 CFR 83.36(e), *Federal Register* 59, 2/25/1994, 9288.

Section 83.6(f), specifically concerning amalgamation, was added in the 1994 revised regulations. The preamble to the *Federal Register* notice provides:

This is a new paragraph which makes explicit that the regulations apply not only to tribes which have existed historically as a single entity, but also to tribes which are the result of the historical combination of several tribes or subunits into a single political entity. Language to this effect was added to criterion (b) in the proposed revised regulations. That language in criterion (b) has been replaced by this general provision. Similar language appears in criterion (e) of the present

⁵³See also Housatonic Valley Coalition, 8/8/2003 at page 8 for a similar argument.

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regulations and, for reason of clarity, has been left in that criterion statement (*Federal Register* 59, 2/25/1994, 9286).

The Government's explanation in the preamble to the 1994 revised regulations provides further context for the wording as contained in criterion 83.7(e), explicitly denying that there was any requirement for a "formal union" and pointing out that past acknowledgment decisions had not required it:

Comment: Two commenters questioned the adequacy of the language allowing ancestry to be derived from historic tribes which combined into an autonomous political entity. They interpreted it as requiring a formal union, even though tribal mergers more often occur informally

Response: The present language does not require a formal union, and past acknowledgment decisions have not required it Thus, we believe that any elaboration on this issue can best be provided in the revised guidelines (*Federal Register* 59 2/25/1994, 9288).

The *Official Guidelines to the Federal Acknowledgment Regulations* state only:

What do you mean by "amalgamated?"

"Amalgamated" means that two or more Indian tribes, or bands, or villages joined together and acted politically as a single group (*Official Guidelines* 9/1997, 50).⁵⁴

The Government's further explanation of the above section in the *Federal Register* publication of the 1994 revised regulations was:

Language has also been added to § 83.6 which explicitly takes into account the inherent limitations of historical research on community and political influence. Further, the section allows for circumstances where evidence is genuinely not available, as opposed to being available but not developed by appropriate research. This does not mean, however, that a group can be acknowledged where continuous existence cannot be reasonably demonstrated, nor where an extant historical record does not record its presence (*Federal Register* 59, 2/25/1994, 9281).

In the case of the Schaghticoke, the tribe's continuous existence is clearly recorded in the extant record. See also the discussion in the PF, Description and Analysis of the Evidence (STN PF

⁵⁴The "definitions" section of the regulations (25 CFR 3.1) does not contain any definitions of the concepts of "amalgamation" or "combination" of tribes.

2002, 37-49 and 61-68).⁵⁵ That discussion included detailed discussion of early deeds between the Potatuck and Weantinock Indians and the settlers of the Towns of northwestern Connecticut, Moravian missionary records, and petitions submitted to the colony of Connecticut. Indeed, in the material submitted for the PF, Connecticut itself stated that the Potatuck tribe existed:

During the period from the mid-seventeenth to the mid-eighteenth centuries, at least four tribes existed within the local area. These tribes were the Potatuck in northwestern Connecticut, the Mahican in northwestern Connecticut, eastern New York, and southwestern Massachusetts; the Housatonic in southwestern Massachusetts; and Tachkanik in eastern New York . . . Each of these tribes came into contact with the colonial authorities and settlers throughout the 100 years before the emergence of the Schaghticoke Indian community at Kent (CT *et al.* 4/16/2002, 38).

Discussion of the claimed “dispersal” and “tribal disintegration” of the Potatuck followed in the 2002 Connecticut submission (CT *et al.* 4/16/2002, 38-40).

Connecticut’s comments in relation to the Miami Proposed Finding.

Connecticut states:

BIA asserts in the Proposed Finding that the STN group meets the pattern of an amalgamated tribe based upon the principles enumerated in the Miami acknowledgment Proposed Finding from 1990. STN PF, at 14, n. 11 (CT *et al.* 8/8/2003, 199).

The PF stated: “The combination of Indians from two or more related settlements into a single group under the pressure of non-Indian settlement does not mean that a petitioner fails to meet criterion 83.7(b) or 83.7(c) during the colonial period” (STN PF 2002, Summ. Crit., 14). Footnote 11, inserted at that point, quoted from the Miami PF:

In the early contact period, i.e. the 1600’s, the Miamis consisted of a series of independent tribes of related peoples. The largest of these, the Crane tribe, which numbered several thousand people, evolved into the historic Miami tribe during the early 1700’s. Bands within the tribe were more or less composed of families related to the village chief, plus additional attached followers. Villages of from 50

⁵⁵Other interested parties acknowledge the existence of the Potatuck tribe at the time of first contact. “By the late 1600s and into the early 1700s, a veritable boom in settlement and colonial town establishment was underway. Numerous new communities spring up. Contacts with Indians throughout this region were prolific, common, and routine. These contacts revolved around trade and land transactions. Indeed, many of the contacts occurred with the Pootatucks [*sic*], one of the many tribes from which the purported Schaghticoke Tribe gained some of its individual members” (CT Municipalities Intro. Narr. 4/16/2002, 10-11).

to 200 people were the primary settlements (Miami PF 1990, 3) (STN PF 2002, 14n11).

Connecticut then argues that this principle does not apply to the Schaghticoke because it denies that the Schaghticoke represent a coalescing of the Weantinock and Potatuck (CT *et al.* 8/8/2003, 101-103), summarizing at the end its position that the BIA “was able to document the specific movements of the Crane band itself” (CT *et al.* 8/8/2003, 103), but that,

[n]o such information exists for the Schaghticoke or its purported predecessor tribes. As a result, to the extent the Miami Proposed Finding is at all relevant to STN it provides a justification for the conclusion that the petitioner has failed to show that it existed as a tribe, or derived from tribes that existed at the time of first sustained contact (CT *et al.* 8/8/2003, 103-104).

For discussion of the available information concerning the historical Potatuck and Weantinock tribes (or, possibly, bands of a single tribe), see both the discussion below and the appendices to this FD.

Cohen Criteria. Connecticut cites to the PF’s discussion of the first contact issue (STN PF 2002, Summ. Crit., 44) and quotes:

It should be noted that on the federal level, as summarized by Felix Cohen, that the treatment of a group as having collective rights in tribal lands or funds, even though not expressly designated as a tribe, has been particularly relied upon in concluding that a group constitutes a “tribe” (Cohen 1942, 271).

Connecticut then states that for the principle described by Cohen to be relevant, “. . . it would have to be shown that the groups of Indians BIA believes to have migrated from Weantinock or Potatuck had pre-existing collective rights in lands or funds. . . .” (CT *et al.* 8/8/2003, 97).

Cohen is relevant here because it is manifest that the pre-contact and early-contact Potatuck and Weantinock settlements were regarded by the officials of the colony of Connecticut as having “collective rights in tribal lands or funds.” Had this not been the case, the General Court and/or Legislature of Connecticut would scarcely have controlled the conditions under which land might be purchased from them, nor would those purchases often have included the signatures of several different representatives of the tribe, rather than only the sachem. Significant numbers of these deeds exist in the Connecticut Indian Papers and in the land records of Connecticut Towns (for abstracts see Wojciechowski 1992). Copies of many of the original deeds, typescripts from the Connecticut Indian Papers, and abstracts are in the STN FAIR database. (See Appendix IIA, Appendix IIB; some, but not all, of the material now placed in the appendices of this FD was also included in the footnotes to the PF, *e.g.* STN PF 2002 , 45ftn38, 45-46ftn39, 47ftn41, 42, 43). It is also clear from contemporary documents that the Colony and State of Connecticut regarded the

Schaghticoke of Kent as having common interest in lands and funds at the time of the American Revolution.⁵⁶

⁵⁶Abraham Fuller, overseer, petitioned the Connecticut General Assembly on October 6, 1775, for direction as to how he should handle the Schaghticoke Indians' land and obtain reimbursement of expenses incurred in caring for John Sherman's injury, stating; "... And said Indians Being a Needy Indolent people and Have Nothing of any Estate to Make payment with or anything that can be Called there [*sic*] own Except that Land the General Assembly have Reserved for their use as Touching said Land that said assembly Have Resirved for the use and servis of said Indians Some Years Since when Job Marwehue the Last Indian Sachem was Living among them He Divided to Each of the Indians his allotment of Land in said Lands and Each one Has Held his allotment accordingly Ever since." Fuller brought up the question of whether he should consider the land as a whole, "These are therefore to pray your Honours to give directions How and in what manner said Expence Shall be paid wheather I shall Consider them as Having a Separate Interest according to the allotment of their Late Sachem or whether I shall Consider them as one Intire famely" (Fuller to CT Gen. Ass. 1775.10.06; Connecticut Archives Indian series 1, vol.2 1647-1789, p.206a).

The Connecticut General Assembly, in December, 1775, appointed Samuel Canfield and Sherman Boardman to investigate the problems regarding the land and debts of the Schaghticokes (CT Public Records 1890, 217-218).

The report of Samuel Canfield and Sherman Boardman to the Connecticut General Assembly, dated December 16, 1775, was passed in the Lower House and concurred in the Upper House. The committee members stated: "In Obedience to Your honnors we have ben to said Schaticook and . . . With the overseer of said Indians also Converst with the Cheafts of the Tribes of said Indians then proposed to vew the Circumstances and Situation of said Lands having Viewd the Same there is In oure oppinion aboute one hundred and Twenty acres of Improved Land Lying In one Common field the Grater Part of which is plow Land Fertile and Good for Wheat and Indian Corn; and that it Cannot be Let out but for Little profits By reason of a division and an Lotment Made by the Lat Sacham Marwehue to Each of the Indians then lving in said Scaticuck theire Equel Part of said Improved Lands and that those that Now Living at Schaticook have held their allotments accordingly we would further observe to Your honnors that since the afore said allotment the Grater part of the Indians to whom the allotments was made are by Death and Removal Redused to Small Number Not more than forty or fiftey old and young and of the allotment of those that Still Improve said Lands according to the /Allotment crossed out/ Division of their Late Sachem is Interspersed throughout the whole of said Improved Lands _ therefore those Lands that are Not challenged by those Indians Now Residing at said Scaticuck Lys under Disadvantages and will Not Rent for the Value thereof by the Rasons aforesaid

"We tfore beg Leave to Report that it is oure oppinion that a Committee be appointed to Divide and allotments make to the Indians that are Now Living and belong to said Scaticuck such apart of said Improved Lands as Shall be Neseary and Need for for them to Improve according to the Judgement of said Comtee and the Remainder of said Lands to be Leased out by the overseer and that the Rents thereof be applied for the Discharging the Debts" (Connecticut Archives Indian series 1, vol. 2 1746-1789, p.207).

Samuel Canfield and Sherman Boardman reported back to the General Assembly on the reallocation of the improved land on the Schaghticoke reservation "to each proprietor or Inhabitant of Such a Quantity of Land as is necessary for his /or her added/ improvement + Subsistance + have had the same duly Measured + Bounded, an Exact Plan of the whole said allotments with the names therein Written, we have procured to be made by the Surveyor and put on the Records of the Town of Kent" (Connecticut Archives Indian series 1, vol.2 1746-1789, p.209b).

This sequence of events clearly demonstrated that the Schaghticoke had a "collective right" in lands in the view of the governing body of Connecticut as of 1775-1776, and also indicates that in the view of the overseer, the former sachem did have political authority sufficient to allocate those lands in such a manner that he did not feel that he could override it without authorization of the General Assembly.

Additionally, the Cohen statement was noted by the PF in a paragraph that began: "The material in the following sections is pertinent to the third parties' views. The comments by Connecticut continue beyond the 'first contact' issue and consider the Moravian era at some length (see below)" (STN PF 2002, 44). The Cohen statement is also applicable to the evaluation of the tribal nature of the Schaghticoke settlement from the 1740's to the end of the 18th century, in that, throughout the period, the group had collective rights in lands set apart for them by the Colony (later State) of Connecticut, and that after 1763 these lands were administered by an overseer appointed by the legislature, with lands being sold by such overseers, with legislative approval, to provide funds for the support, medical care, etc. of the Schaghticoke Indians.

Connecticut states:

Indeed, the record does not even show, nor does the BIA explain, which individuals in the purported, emergent Schaghticoke Tribe of the 1740s and 1750s came from these two supposed predecessor tribes and how those individuals carried forward tribal practices and institutions. Instead, BIA simply opines, without evidentiary support, that there were "strong pre-existing ties of relationship" among unspecified individuals who purportedly coalesced into a new tribe (CT *et al.* 8/8/2003, 99).

The above statement is incorrect. The PF section titled, "*The Formation of the Permanent Indian Settlement at Schaghticoke: 1700-1742*" (STN PF 2002, 37-69), and in particular the subsection, The Pachgatgoch Households (pages 58-60), presented the evidence and analysis, including the footnotes citing deeds, court records, and the Moravian records, etc., that had specific references to the Schaghticoke ties with Potatuck. Although it is too lengthy to quote here in its entirety, the PF analyzed the Pachgatgoch/Schaghticoke households at length and showed the origins and interrelationships (STN PF 2002, 58-60). The PF concluded:

Overall, the "Verwandtschaft" or kin relationships indicated in the Moravian records, as well as the recorded locations where the baptisms of the various individuals took place, indicate that the mid-18th century Schaghticoke settlement was not a random collection of previously unconnected individuals, but rather consisted of persons who had ties of marriage and kinship which predated 1742 and which crossed the various pre-existing Indian settlements at Redding, New Milford, Potatuck, Wechquadnach, Shecomeco, and other localities of northwestern Connecticut and eastern New York. The focus, however, was strongly on origins from the Weantinock (New Milford) and Potatuck Indians, which corresponds with the description of the settlement's development given by Slosson (Slosson 1812) (STN PF 2002, 60).

The evidence shows that the PF specified both the individuals and the relationships that demonstrate the ties between Schaghticoke and Potatuck. Connecticut presents no evidence that undermines these conclusions. The analysis in the PF is affirmed in this FD.

Hypotheses of the Housatonic Valley Coalition Concerning Tribal Amalgamation:

As noted above, the Housatonic Valley Coalition's discussion of the issues of first contact and tribal amalgamation are intermixed (Housatonic Valley Coalition 8/8/2003, 4-5). The majority of the points raised have been responded to above, in the discussion of the comments of the State of Connecticut. Housatonic Valley Coalition states specifically:

How these "pre-existing ties" of blood and marriage can logically account for the political amalgamation of an autonomous group is not explained. Indeed, while it may be reasonable to assume that pre-existing social ties would facilitate the social integration of a disparate group of individuals, it is not in the least obvious how pre-existing social ties among individuals from disparate tribes can establish the continuity of a politically autonomous entity. In any case, Wojciechowski himself state that; "Full integration of the Potatuck and Pequannock migrants at Schaghticoke, to the degree that they defined themselves primarily as Schaghticoke Indians and not anymore as displaced Potatuck or Pequannock did not take place until about 1800." (Wojciechowski 1992, 19) (Housatonic Valley Coalition 8/8/2003, 10-11).

The extensive documentation for the period from the 1740's through 1800 shows the Schaghticoke acting as a tribal entity, whatever Wojciechowski has speculated concerning the self-definition of the group's component parts.

Carryover from criterion 83.7(b)(2) to criterion 83.7(c) for the 19th century.

Criterion 83.7(c)(3) provides:

(3) A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.

The position of the petitioner under criteria 83.7(b)(2)(i) and 83.7(b)(2)(ii) is discussed in detail under criterion 83.7(b), above, with a description of the methodology used. A summary of the raw data may be found in the tables in Appendix I. This section summarizes the conclusions as they impact criterion 83.7(c).

Residency. The residency data for the period 1801-1850 is not sufficient for a statistical analysis, because there is not adequate information in regard to household size to determine the proportion of the on-reservation and off-reservation population at any specific date, or even for any given decade, to determine whether more than 50 percent of the Schaghticoke were living in a residential community as defined in 83.7(b)(2)(i). For example, on the basis of the overseer's reports and other documents, the households known to have been on the reservation during the decade from 1841-1850 were those of Eunice Mauwee, Lavinia Carter, Parmelia (Mauwee)

Kilson, Alexander Value Kilson, Truman Bradley, John Mauwee, and Elihu and Alma Mauwee. Those households known to have been off-reservation during the same period include Rufus Bunker, Eli Bunker, Luman Bunker, Abraham Rice, Loraine (Vandore) Parrott, Laura Carter, Jeremiah Cogswell, Jabez Cogswell, and Nathan Cogswell. Individuals known to have resided off-reservation include Patty Mauwee. The residency rate was probably near 50 percent, but absent information about the composition of the households, it is not clear whether it was above or below that benchmark. The residency data for this period does show community, as noted under criterion 83.7(b), but does not show community at a sufficient level to provide carryover for demonstration of political authority or influence under 83.7(c)(3).

The PF concluded that at the time of the 1860 Federal census, the state of the evidence was not sufficiently firm to conclude that more than 50 percent of the Schaghticoke tribal members were in a residential community (STN PF 2002, 89), although the residential community, by either method of calculation undertaken, comprised more than 40 percent of the total in 1860. This conclusion remains the same, even with all the additional documentation submitted by the petitioner and third parties for the FD. The calculations for the 1870 and 1880 census provided residency rates of approximately 40 percent. Thus, while the residency rate as late as 1880 was quite significant, it was not high enough to provide carryover evidence for political influence and authority under 83.7(c)(3). During the 1880's and 1890's, the percentage of Schaghticoke resident on the reservation declined (18 residents on the reservation in the 1900 census; about 60 Schaghticoke in the 1897 overseer's estimate; 126 Schaghticoke enumerated in a census taken at the order of the Litchfield County Court of Common Pleas in 1902).⁵⁷ Whether calculated on the basis of the 1897 estimate or the 1902 census, the residency data for the period between 1881 and 1900 does provide evidence for criterion 83.7(b), maintenance of community, but does not show community at a sufficient level to provide carryover for demonstration of political authority or influence under 83.7(c)(3).

Endogamy. OFA undertook a detailed, decade-by-decade, analysis to determine whether petitioner meets 83.7(b)(2): "At least 50 percent of the marriages in the group are between members of the group" (see above under criterion 83.7(b) and below, Appendix I). The endogamy analysis included both on-reservation and off-reservation residents and included all unions known to have existed, whether or not they were legally formalized.⁵⁸

⁵⁷It is not clear whether this was a census of persons who were maintaining tribal relations or an enumeration of all known descendants of the historical Schaghticoke, whether they were maintaining tribal relations or not. The overseers had consistently estimated a tribal population of 50 to 65 tribal members between 1880 and 1900 (see the analysis above under criterion 83.7(b)).

⁵⁸The endogamy rate up to 1870, calculated conservatively, is consistently higher than the apparent residency rate, which is consonant with the pattern of off-residency employment combined with maintenance of community ties and regular returns to or visits to the reservation on the part of many families who did not reside permanently.

The omission of informal unions, signified only by the birth of a child to a Schaghticoke as recorded in the overseer's account book, would result in considerably higher endogamy rates for the first third of the 19th

histories, including new information added to the record, demonstrates that significant social relationships existed between as well as within the three main family lines during this time period.

The conflicting evidence cited in the proposed finding and in some cases by the third parties, included several interview statements indicating, or claimed by third parties to indicate, a lack of social contacts. Some of these interview statements cited by the State in its response to the PF, could not, upon examination in the context of the entire interview, were not such statements, were ambiguous or otherwise did not provide evidence to show that there were not social contacts within the Schaghticoke. The remaining few statements are outweighed by the larger body of evidence.

The third parties cited interview statements by one prominent individual, sister of the former chairman Irving Harris and active in Schaghticoke affairs for a long period up to the present, that the Schaghticoke in 1967 did not know each other. These statements, part of the conflicting evidence referenced by the proposed finding, are contradicted by the statements of others, including the person who was chairman of the group in 1967. They are also contradicted by the documentary and interview evidence of social and political contacts in the three decades preceding 1967. This final determination concludes, based on the overall body of interview evidence as well as the documentary record, that her statements are not an accurate representation of community among the Schaghticoke between 1940 and 1967. The more reliable body of evidence indicates that the families knew each other and maintained some degree of social connection.

The documents of the 1936 to 1967 era when Franklin Bearce was actively involved with the Schaghticoke, demonstrate social and political contact, as does the oral history of reservation meetings during that period (STN PF 2002, 135). Additional evidence is that the enrollments in 1949 and 1954 generally correspond with the families of Schaghticoke who enrolled between 1967 and 1973, indicating the continuity of community. The activities of the Bearce led council drew on all three main lines, and various sublines, until no more than nine before 1967, when Irving Harris began to try to reorganize the Schaghticoke. Other evidence which demonstrates that community existed in this time period is the intensity of the inter-family line conflicts immediately before and after 1967. There is greater evidence and a clearer picture of these conflicts than there was for the PF as a result of additional analysis for this FD. The division of the leadership into two parts between 1958 and 1967 reflects that conflict. (See discussion under criterion 83.7(c) below.)

Continuous state recognition provides additional evidence here, where specific evidence of community exists.

Based on the new evidence and the analysis and reevaluation of the evidence already in the record, this FD concludes that criterion 83.7(b) is met between 1940 and 1967.

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- in 1800, at the beginning of the century, the Schaghticoke had an endogamy rate of 94 percent;
- of those Schaghticoke who were married for some portion of the time between 1801 and 1810, there was an endogamy rate of 80 percent;
- of those Schaghticoke who were married for some portion of the time between 1811 and 1820, there was an endogamy rate of 61 percent;
- of those Schaghticoke who were married for some portion of the time between 1821 and 1830, there was an endogamy rate of 40 percent;
- of those Schaghticoke who were married for some portion of the time between 1831 and 1840, there was an endogamy rate of 45 percent;
- of those Schaghticoke who were married for some portion of the time between 1841 and 1850, there was an endogamy rate of 54 percent;
- of those Schaghticoke who were married for some portion of the time between 1851 and 1860, there was an endogamy rate of 53 percent;
- of those Schaghticoke who were married for some portion of the time between 1861 and 1870, there was an endogamy rate of 50 percent;
- of those Schaghticoke who were married for some portion of the time between 1871 and 1880, there was an endogamy rate of 42 percent;
- of those Schaghticoke who were married for some portion of the time between 1881 and 1890, there was a maximum endogamy rate of 28 percent;
- of those Schaghticoke who were married for some portion of the time between 1891 and 1900, there was an endogamy rate of 7 percent.

On the basis of these calculations, the endogamy rate was sufficient that the STN meets criterion 83.7(c) from 1801-1820 and 1841-1870 under 83.7(c)(3).

Other data pertaining to political influence and authority in the 19th century.

The PF stated that, “[a]lthough, in a certain sense, Eunice Mauwee represented the group to outsiders through the interviews that she granted, there is no evidence that she did so in ‘matters of consequence,’ as required under the definition of political influence in the regulations” (STN

century.

PF 2002, Summ. Crit., 24). The earliest recorded interview with Eunice Mauwee is that done by J. W. Barber in 1836 (Barber 1849b); the last is the one conducted by the representatives of the Moravian Historical Society in 1859 (Reichel 1860; Lossing 1871). There were other references to interviews with Eunice Mauwee, but the documentation submitted provides little context. In one case, for example, pages one through nine of one narrative of an 1859 interview were omitted (Benton 1912), making it unclear whether Benton himself had been present, or whether he was quoting from some other publication. He did specify that he called her a “princess” because she was a granddaughter of the former sachem Gideon Mauwee (Benton 1912, 15) and did not attribute any specific leadership activities to her.

The STN cited an undated account which was supposedly based on information provided by the Congregational minister who baptized Eunice Mauwee in 1844 and which attributed to her a position as “solitary pillar” and a “place of authority” but predicted that this would not subsequently be filled in this “poor remnant of a Tribe.” However, this abstract appeared only in the FTW notes on Eunice Mauwee.⁹⁹ The document itself was not in the petitioner’s submission and therefore it cannot be determined whether it provided any indication of how Eunice Mauwee might have exercised leadership or had a place of authority.

In 1909, also retrospectively, Frank G. Speck wrote that, “[n]othing in the way of custom or belief was remembered by any Scaticook except that, more than fifty years ago, they elected a ‘queen’ and that upon that occasion she was crowned with a silver headband and wore an Indian costume” (Speck 1909, 206). Speck’s visit to the reservation was in 1903; this recollection was not in the notebook of his visit submitted in evidence (Speck 1903.08.15). “More than fifty years ago” from that date, if it could be taken literally, would be 1852 or earlier. In 1852, Abel Beach resigned from his half-century as Schaghticoke overseer. There is no contemporary 19th century evidence in the record to confirm the recollection that Speck reported.

⁹⁹LMG: HARTFORD PUBLIC LIBRARY, Reference Room, Clippings File

Doc. #3273, “The Last of Their Race”

(Abstract) History & Genealogy discussed by Rev. W.W. Andrews of Lavinia Carter and Eunice (Mauwee) Manwehw, of the Royal Family. Claimed Baptised Eunice past 80... “this solitary pillar of her tribe,” since deceased, “her place of authority in that poor remnant of a Tribe will never be filled.” History given by Rev. William G. Andrews of Guilford, CT.

Abstracts, by their nature, cannot be relied upon for historical data. To do so would not be sound research methodology. In another case, the petitioner submitted the following abstract in the genealogical database notes:

KA/LMG: 1903 Dyer, Edward p.213, Doc. #329

*Chief James H. Harris worked delivering mail between Gaylordsville and Bull’s Bridge.

The actual passage neither called James H. Harris by name nor described him as chief: “One day in the middle of April, 1902, a tourist found himself in a little store and post-office on the borders of the Scatacook country. Among the usual crowd of loungers was a man with marked Indian features . . . He was the mail-carrier between Gaylordsville and Bull’s Bridge. He said he lived on the Scatacook Reservation and would delight to act as guide for the stranger” (Dyer 1903, 213).

The PF discussed a visit to the reservation undertaken by a local historian in company with the overseer approximately 1881 (STN PF 2002, 102-103). This visitor's description of Eunice Mauwee's granddaughter Lavinia Carter as "Queen of the Schaghticoke" was also specified as "Queen by inheritance, she being a great-grand-daughter of Mawwehu [Mauwee]" (Todd 1906, 212). Such descriptions provide no specific information in regard to political authority or influence.

The residency rate on the reservation in 1870 was 48 percent and in 1880 it was 40 percent. This is strong evidence for community for the period 1870-1880, which is supporting evidence for political influence, under section 83.7(c)(1)(iv).

In regard to the petitions presented in the second half of the 19th century, the PF stated:

There is very limited evidence for political authority or influence under criterion 83.7(c) in the period from 1861 through 1899 in the form of two petitions signed by more than half of the Schaghticoke's adult members.⁶⁰ By themselves, these two documents within a period of 40 years do not provide sufficient evidence to support a finding that the petitioner meets criterion 83.7(c) for this full period. The evidence does not show that there were any petitions submitted in connection with the overseer's appointments of 1865 and 1870, or that State authorities consulted with the group in making them. The evidence for criterion 83.7(b) for this period is not strong enough to apply the carryover provisions to criterion 83.7(c)(3) because none of the forms of evidence in §83.7(b)(2) were shown to have been present by reliable evidence.

However, for the period from 1861 through 1899, the Schaghticoke have shown the existence of community under § 83.7(b)(1) at more than a minimal level. Under § 83.7(c)(1)(iv), this provides supporting evidence for meeting criterion 83.7(c).⁶¹ The petitions, in combination with the existence of community at a more than minimal level and the continuous state relationship since colonial times and the continuous existence of the reservation lands held in trust by the State, with oversight function, are sufficient to show that the petitioner meets criterion 83.7(c) for the period from 1876 through 1884. The state relationship here provides additional evidence because in this period there was a specific political dealing with

⁶⁰"The appointment of overseers for the Eastern Pequot reservation by the colony of Connecticut in itself provides data about the continuous existence of the tribal entity, but no specific information about internal political leadership or influence. However, the initiative of the Eastern Pequot Indians in requesting particular persons as overseers, combined with the signatures on the petitions, indicates that the Indians on the Lantern Hill reservation did at this time have internal political processes" (Eastern Pequot PF 2000, 104).

⁶¹ One form of evidence to demonstrate criterion 83.7(c) is that in § 83.7(c)(1)(iv): The group meets the criterion in § 83.7(b) at more than a minimal level.

the group in that the Litchfield County Superior Court and Court of Common Pleas did act in response to the petitions.

For the periods from 1861 to 1875, and from 1885 to 1899, the evidence is not sufficient to demonstrate that the Schaghticoke meet criterion 83.7(c). The state relationship does not provide additional evidence for these periods on either side of the two petitions because there is an absence of specific evidence of the exercise of political influence within the group within the meaning of the acknowledgment regulations (STN PF 2002, Summ. Crit., 25).

The Description and Analysis of the Evidence provided more analysis of the 1876 petition (STN PF 2002, 96-97) and of the 1884 petition (STN PF 2002, 105-109).

For the FD, there is limited additional context for the two above petitions, which strengthens the conclusion of the PF that they show political influence and authority within the group at these dates, and a third late 19th century petition. Both the 1876⁶² and 1884⁶³ Schaghticoke petitions for appointment of an overseer were presented shortly after the passage by the Connecticut legislature of legislation that affected the Schaghticoke tribe.

In addition to the 1876 and 1884 petitions discussed in the PF, the following additional item has been submitted from the year 1892. The submission contained only a partial typescript of the court docket entry pertaining to the petition. Therefore, there is no indication in the record as to whether the original petition had more than one signer, although it is clear from the phraseology of the court record that it was submitted upon behalf of the Schaghticoke as a body and that the report was made in regard to the group's common property.⁶⁴ The submitter was Truman

⁶²[House Bill No. 11.] An Act in Amendment of an Act relating to Indians. Overseer to be appointed for Indians in Litchfield county. "Section 1. An overseer shall be annually appointed to each tribe of Indians, by the district court in the judicial district of Litchfield county, in which such tribe resides, to have the care and management of its lands and money, and to see that they are used for the best interest of the Indians, and that the rents and profits of all such estate are applied to their benefit.

"Sec. 2. Jurisdiction of Litchfield county district court. Said Overseer shall give bonds to the state as is now required by law, and shall annually settle his account of the concerns of such tribe with said district court, and said district court shall hereafter have sole jurisdiction of all matters now exercised by the superior court, as to said overseer of the tribes in said judicial district.

Approved, June 7, 1876 (*Public Acts Passed by the General Assembly of the State of Connecticut in the year 1876. Published by Authority* (Hartford: The Case, Lockwood & Brainard Co., Printers, 1876), 88-89).

⁶³Jurisdiction over Indian Tribes in Litchfield Co. is transferred from Litchfield Superior Court to Litchfield Court of Common Pleas in 1883. Public Acts, Ch. 110 (Principal Public Laws 1941, [3]; Appendix B of unidentified item) (typed summary only).

⁶⁴Petition, Truman Bradley to Litchfield Co. Court of Common Pleas.

At a Court of Common Pleas holden at Litchfield written [*sic* -- within?] and for the Court of Litchfield on the 4th Monday of September 1892 and adjourned to New Milford in said County.

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Bradley, a tribal member who had also been involved with both the 1876 and 1884 petitions (STN PF 2002, 96n130; STN PF 2002, 105n140), although by 1870 he lived off-reservation, in either Trumbull or Bridgeport (Fairfield County, Connecticut).

The submissions provide little context for this petition. On October 27, 1893, the overseer recorded payments to Luther Eaton and Geo. Bull, who had conducted the appraisal of the property value of the notes held by the Schaghticoke (Overseer Ledger 1884-1914; C:\FAIR\079_Doc_Images\SN\V060\D0015.TIF, Bates Page 58 of 142). The petitioner's researcher indicates that the appraisal was recorded: "They did so one year later, and it was included in the Court's Judgment (Document 1501-8: Court of Common Pleas 1892. Judgments, Litchfield County, Volume 1, pp. 382-384)" (Shapiro 9/29/2003, A-1). The report itself was not included in the submissions. On the basis of the additional evidence provided by the 1892 petition, the STN meets criterion 83.7(c) from 1876 through 1892.

On the basis of the additional evidence provided by the 1892 petition, the strong evidence of community in combination with the direct evidence for political influence demonstrates that the STN meets criterion 83.7(c) from 1870 through 1892.

Political Processes 1892 to 1923

Introduction: Generational Changes in the Schaghticoke Population Between 1850 and 1930

The majority of the older Schaghticoke who had been well-known to non-Indians during the second half of the 19th century and who had signed the 1876 and 1884 petitions also died between 1892 and 1910 (Henry Harris, October 27, 1895; Eliza Ann (Kelly) Kilson, January 26, 1899; Abigail (Mauwee) Harris, January 19, 1900; Rachel Mauwee, January 6, 1903; Jabez

Present Hon. Albert T. Rorabask, Judge.
Court of Common Pleas, Litchfield County, 4th Monday of September Term: 1892.
Truman Bradley in (- -)

(- -)

Schaticoke [*sic*] Tribe of Indians

Truman Bradley a Member of the Schaticoke Tribe of Indians presented his petition to the August Term of this Court 1892 asking that Geo. R. Bull & Luther Eaton both of Kent in said County be appointed appraisers & appraise the real and personal property of said Tribe and also appraise the lands mortgaged to (next word looks like) sicme certain promisory notes belonging to said Tribe -

The Court appoints said Bull & Eaton such appraisers, and ordered them to make their report to this Court, which appraisal the said Bull and Eaton made and returned their report thereof to the present Term of this Court on the 24th day of October 1892 which report was accepted by the Court and is as follows . . . (Records Court of Common Pleas, Judgements. Litchfield County, Vol. 1., pg. 382-384; typescript).

The above was page five of something; no report followed in the submission. The overscer's ledger records payment for the court-ordered audit from the Schaghticoke tribal funds.

Cogswell, August 7, 1904; Value Kilson, January 25, 1907; Sarah (Bradley) Cogswell, September 1909; James Henry Harris, December 1, 1909). Truman Bradley, who signed the 1876, 1884, and 1892 Schaghticoke petitions, died in 1900, aged about 75-79 years old (the dates of birth ascribed to him vary by a few years); his first wife, Julia Kilson, had died in 1892; his second wife, Mary Jane (Kelly) Kilson, survived him.

Various external accounts ascribed positions of some prominence to several of the above individuals, such as the indications that both Value Kilson (Last of Schaghticoke [sic] 11/1934) and James H. Harris (Preacher Jim Harris 7/17/1903) had been lay preachers at nearby churches. These churches were not specifically Indian, however, and none of the accounts provided information concerning specific forms of internal tribal leadership, even though articles published shortly after Harris' death ascribed the title of "chief" to him and he was to some extent associated with George Cogswell in scouting for the Rattlesnake Club described below (Schaghticoke Rattlesnake Club Bags Twenty Snakes 5/30/1910). No accounts have been submitted that described Harris as a "chief" or comparable title during his own lifetime. By 1910, the only signers of the 1876 and 1884 Schaghticoke petitions who remained alive⁶⁵ were Nancy M. (Kelly) Kilson (1839-1920); George H. Cogswell, (1840-1923); Mary Ett (Kilson) Jessen, (1850-1915);⁶⁶ Charles William Kilson (1854-1934); Frederick Kilson, born 1856 and still alive in 1920; Joseph Henry Bradley (1859-1936); and Lyman Charles Kilson (about 1860-1935). Of that group, although all were publicly identified as Schaghticoke Indians in newspaper articles, State records, vital records, etc. (for details, see the FAIR data base), the only one who became well-known to non-Indians was George H. Cogswell.

The generation which followed the well-known older 19th century Schaghticoke was marked by a series of comparatively early deaths among the individuals who reached adulthood. This, too, can be seen by looking at the signers of the 1876 and 1884 petitions.

Of the less-well-known signers of the 1876 petition, Caroline (Kilson) Rylus/Rilas Potter, born in 1821 and a sister of Value Kilson, was last mentioned by the overseer in 1894 (Overseer Ledger 1884-1914) and is presumed to have died shortly thereafter.⁶⁷ Emma/Emoline J. Kilson (1848-1892), Value's daughter, predeceased her father, unmarried.⁶⁸

⁶⁵Signers unaccounted for here predeceased Truman Bradley.

⁶⁶Mary Ett (Kilson) Jessen was photographed by Frank Speck on the reservation in 1903 and her reservation funeral was described in a 1915 newspaper article (Schaghticoke Funeral 11/5/1915).

⁶⁷Caroline was survived by at least two sons, Walter Rylas (1850-1913), who was buried at Schaghticoke, and Sydney Potter (1860-1907), who died in Trumbull, Connecticut, as well as her daughter Emily (Potter) Lynch. None is known to have left surviving children.

⁶⁸As noted above, two of Value Kilson's sons, Charles W. and Frederick, signed the 1884 petition. Fred Kilson died unmarried; Charles W. Kilson left one son, Robert Lewis Kilson (1887-1961), who died unmarried and was buried on the reservation.

Of the signers of the 1884 petition, Eli Bunker, born about 1803, died in 1888; he left no children. Truman Bradley's son, George Wesley Bradley, born 1855, died January 25, 1901, leaving children who ranged in age from 21 to 17.⁶⁹ Hellen Lossing (Skickett) Wilmot, born in 1859, died in 1888, leaving no surviving children; her brother Julius Skickett (1855-1884) died unmarried the same year that the petition was presented.⁷⁰ Charles Henry Harris, born about 1852, was last mentioned by the overseer in 1889 (Overseer Ledger 1884-1914) and is presumed to have died shortly thereafter.

Nancy M. (Kelly) Kilson, who signed the 1884 petition, survived until 1920, but several of her children predeceased her, including the sons John William (about 1865-1891), Legrand (1868-1900) and Jerome (1871-1895). Two other sons, Joseph Kilson (born about 1863) and Edward Kilson (born about 1867), are presumed to have died young, since they were last located in the records on the 1880 census and were not subsequently mentioned by the Schaghticoke overseers. Nancy was survived by two sons Lyman Charles (about 1860-1935), and George Robert (1861-1942), the latter of whom died unmarried.

When James Henry Harris died in 1909, his surviving children ranged in age from 30 to 11; the oldest son was 20 years old. Similarly, George H. Cogswell's oldest child was William Truman Cogswell, born in 1867. None of the children of either of these men had been old enough to sign the 1884 petition. The same was true for Mary Ett Kilson's daughter Bertha (born 1879).

The documentation does not indicate that any of the Schaghticoke born in the 1850's and early 1860's who survived to adulthood assumed leadership roles, although several of them (five men) survived into the 1930's and early 1940's. When Schaghticoke political activity resumed at a higher level in the 1930's, the leading figures were the younger adults, born from 1867-1900, some of whom were children and some of whom were grandchildren of the 19th century petition signers.

Summary in the Proposed Finding

The PF summary evaluation for the early decades of the 20th century concluded that

There was no significant evidence to support the petitioner's position that James H. Harris (died 1909) and George Cogswell (died 1923) were leaders. Although they were well known, none of the contemporary descriptions of their activities described roles as leaders of the Schaghticoke. The references to them by the title

⁶⁹Truman Bradley's children other than George Wesley and James Henry were daughters. Helen reached adulthood but died in 1892; Frances lived until 1919. The death dates of Cornelia and Alice were not submitted, but they were alive in 1902, as was Sarah (Bradley) Cogswell, who survived until 1909 (see above).

⁷⁰Their sister Catherine Skickett, born about 1853, who did not sign the petition, appears to have died shortly after 1889, unmarried.

of “chief,” often in newspaper accounts, do not provide substantial evidence that they exercised political influence or carried out activities which meet the definition of political influence in § 83.1 of the regulations. Interview references to them as leaders provided little substantial detail (STN PF 2002, Summ. Crit., 26).

The PF also concluded that “While George Cogswell was a well-known figure, there is little evidence to demonstrate that he was a leader of the Schaghticoke” (STN PF 2002, 124). The PF noted that he was perhaps the most prominent Schaghticoke snake hunter and especially well-known for his role in the Rattlesnake Club. The finding noted the petitioner’s claim that this role was evidence of his leadership, but did not accept that claim. The PF stated that “The only potentially significant evidence of leadership was that Cogswell kept a kind of ‘guest book,’ in which was entered all of the visitors to the reservation. There was little specific evidence about this, including what time period he kept the guest book” (STN PF 2002, 124).

Third Party Comments

The Towns extensively critique the STN’s previous arguments concerning the rattlesnake hunts in the first decades of the 20th century, and the roles of George Cogswell and James H. Harris as leaders in that context (Housatonic Valley Coalition 8/8/2003, 18-24). The Towns’ comments primarily point out that most of the participants in the Schaghticoke Rattlesnake Club were non-Indians, and that non-Indians could be experts in handling rattlesnakes.

Review of Petitioner’s Arguments Concerning Political Processes: 1892 to 1923

General Arguments

The STN response presents several reports which include general arguments to demonstrate significant political processes from 1890 to approximately 1930 (Austin, 8/8/03e, Palma 8/8/2003, Lavin and Crone-Morange 8/4/2003). One report states that decisions were typically made on the basis of community consensus building achieved through informal political discussions among tribal members, but provides little or no specific data or citation for this assertion (Austin 8/8/2003e, 8). This STN report concludes that “Therefore much of the internal political process of the Tribe from 1890 to 1930 was not directly recorded in the form of documentary evidence.”

The STN response argues that political processes are to be inferred from events and situations, based on a model of political processes in band societies. However, it was not shown that this is a band society – most of the anthropological literature on band societies refers to circumstances where distinct cultural processes are still clearly operating. The report does note that information concerning “tribal conflict resolution,” which it correctly notes is often good evidence concerning political processes, is conspicuously absent for most of this period (Austin, 8/8/03e, 9).

The petitioner further states that “Most of the leadership . . . from 1890 to 1930 was provided by tribal elders living on the reservation” with also some off-reservation leaders, particularly between

1920 and 1930 (Austin, 8/8/03e, 14). It concluded most of the available evidence for leadership 1890 to 1930 concerned the “elders” of the reservation who “communicated with tribal members and leaders who lived off-reservation.”

There was little evidence presented in any of the STN reports, or found in the record, to demonstrate such communication occurred. Evidence of contacts between reservation residents and their immediate off-reservation relatives does not in itself demonstrate communication by leaders to off-reservation followers. There was no specific discussion or analysis concerning the named individuals as “lineage heads” – only that they were senior members of particular family lines. There was no indication, for instance, that George Cogswell acted in these regards for the rest of the Cogswells, or that James H. Harris acted for all of his family.

A second STN report which also presented a detailed analysis of claimed Schaghticoke political leadership is the “Schaghticoke Timeline for Community and Political Authority” (Lavin and Crone-Morange 8/4/2003). This report presents a short general analysis and discussion and then an extended chronological review of specific documents, with additional appended arguments. The volume also presents a chart of claimed leaders, with description of attributed leadership actions, organized by decade (Lavin and Crone-Morange 8/4/2003 Table). Specific arguments discussed below include:

Nineteenth and early 20th century Schaghticoke leadership, however, is most pronounced in the form of culture keepers and economic leaders who are also lineage and sublineage heads. [Emphasis added.] Culture keepers maintained tribal traditions and passed them down to future generations via hands-on teaching and story telling (Lavin and Crone-Morange 8/2/2003).

The term “economic leader” as applied by the STN volume refers primarily to the activities surrounding the rattlesnake hunts. The evidence concerning economic leaders and culture keepers are discussed separately below.

STN Arguments re Retention of the Reservation Land

A general hypothesis offered by the STN is that in the period before the 1930’s the Schaghticoke, unlike some other Indian groups in Connecticut, retained the land because they fought for it, and that this is therefore evidence of political processes. The STN states that one of the strongest signs of political coherence is that “tribal members have been able to protect a portion of their reservation and maintain the reservation’s resource for the benefit and use of tribal members only” (Austin, 8/8/03e, 12). The STN states further that “This is true because the tribe has remained politically united and actively fought for its collective rights . . . [otherwise] the land would surely have been taken away from them” (Austin, 8/8/03e, 13-14). Evidence that the petitioner actively fought for its rights in this time period is lacking.

The STN argues further that the act of remaining on or moving to the reservation was itself a political act (Austin, 8/8/03e, 14). Nothing specific was cited or found in the record to show that instances of moving to the reservation or seeking to move to the reservation in this time period were political acts, as opposed to an act based on economic need or simply attachment to the reservation. The PF concluded that even the long-time attempts of Howard Nelson Harris (who held the title of chief from approximately 1949 to 1967) to move to the reservation, efforts which began in the 1920's and continued into the 1950's, did not clearly represent a political action on his part (STN PF 2002, 26, 126). There was no new evidence for the FD to demonstrate otherwise.

The STN also states that tribal elders played an important role for 1890 to 1920, preventing the reservation from being sold, preventing squatters from moving onto the reservation, and guarding the reservation resources for the use and benefit of tribal members only (Austin, 8/8/03e, 36). There is little evidence in the record to show such specific actions in this specific time period. This claim has apparent reference to the Truman Bradley petition for accounting in 1892 (see discussion above). It also refers, more generally, to the receipt of visitors by Schaghticoke residents and to the role of individuals like George Cogswell as guides, etc. for hunters (see also discussion of rattlesnake hunting) as evidence for political authority during this period. The report does not provide a detailed description of evidence to support this claim.

The STN asserts that the Schaghticoke controlled the reservation and access to it. It claims that the fact that only tribal members lived on the reservation was evidence they were governing themselves. There is no basis for to conclude that political action had occurred based simply on maintenance of the reservation, given the role of the overseer concerning the reservation, and specifically his control of its land. Direct evidence of political action within the Schaghticoke is not documented in this regard. Evidence against it may be that, if the Schaghticoke had actually controlled the land, the family of James H. Harris would not have been required to move off after James H. Harris died. Additional evidence is that Judge Welsh of the Court of Common pleas and Overseer Martin Lane had to take action in 190x to evict squatters. This, however, may have resulted from complaints by Schaghticoke residents of the reservation (Appeal for the Scatacook Tribe 5/14/1915).

The STN also argues that the Schaghticoke, and particularly George Cogswell, exercised control of access to the reservation. This claim is in part discussed below in the context of the rattlesnake hunt but is a broader topic than the rattlesnake hunt itself. As local, knowledgeable individuals, Cogswell, and James Harris, would have influenced who came out to hunt rattlesnakes during the hunts, or otherwise, since they were sought out by non-Indians and thus served as a conduit to the reservation for snake hunters and probably other hunters. There is no indication they, or the community as a whole, otherwise influenced who came on reservation or exercised control against trespass.

There are two references in the record to the "guestbook" or ledger, which George Cogswell, and subsequently his son Frank Cogswell, used in some fashion to record who came to the

reservation. This 'guestbook' by itself does not show that the community was controlling, as opposed to recording, who came onto the reservation for some purposes.

George Cogswell and James H. Harris

The core argument of the STN to demonstrate political processes from 1900 to the 1920's rests on the evaluation of evidence concerning James H. Harris (d. 1909) and George Cogswell (d. 1923). A thorough examination of the evidence in the record for the PF and new evidence submitted for the FD supports the conclusion in the PF. Both men were quite well known to non-Indians, but there were essentially no contemporary references to them as leaders, or other evidence of leadership within the group. There is little oral history describing leadership roles for them beyond identifications of them as "chief."

The STN argues that an invitation to Harris and Cogswell to participate in a parade in New Milford in 1907 is an example of their representing the Schaghticoke (Austin 8/8/2003e, Bull's Bridge 12/17/1909, Dibble 1991). It is clear that the locals recognized a Schaghticoke community on the reservation at this time period and Harris and Cogswell were clearly well-known in the region. There is nothing, however, in the accounts of this parade to show that these men participated specifically or even nominally as leaders of the Schaghticoke tribe.

One STN report describes George Cogswell as the "main tribal leader" from 1900 to 1919, after the death of others, characterizing him as "representing the tribe to outsiders," referring especially to talking to reporters (Austin 8/8/03, 35). The STN's "Timeline" report presents similar and additional arguments and cites data intended to show a prominent role for George Cogswell in representing the Schaghticoke to outsiders (from 1906 to 1923) and as a "game warden," serving as a liaison "between the tribe and outsiders" (Lavin and Crone-Morange 8/2/2003).

There is no good evidence to show that either the Schaghticoke or the general population viewed George Cogswell as a 'game warden' except to the extent that his role in the Rattlesnake Club and more generally his role as a hunting guide might be considered one (see e.g., Village and Vicinity 9/17/1909). There is one news item that when a dead deer was found on the road near the reservation, both Cogswell and the game warden were called out to determine the manner of its demise. There is not good evidence in the record to show whether this was a tribal function rather than an individual role.

Two other specific items of note are referenced in the Timeline report as evidence of tribal leadership by Cogswell. One is a newspaper account indicating that Cogswell offered the use of the reservation for a meeting of the "Eel Weir Association" (Village and Vicinity 9/17/1909). The account states that Cogswell, as President of the Schaghticoke Rattlesnake Club, offered "the use of the club's grounds." There was no further information concerning this event. The information does not indicate that the action was taken by George Cogswell as a tribal leader, given that the offer was apparently made in the name of the Rattlesnake Club.

The second item is characterized as showing that Cogswell was “sexton” of the Schaghticoke burial ground, and carried out a ‘native American’ burial ceremony in 1915 at the burial of Mary Kilson (Lavin and Crone-Morange 8/4/2003, 83). The detailed account of the funeral stated in part “Grave, dug by George Cogswell, sexton of the cemetery, was lined with evergreen boughs from the mountain” (Schaghticoke Funeral 11/5/1915). The overseer’s ledger references instances where Cogswell was paid to dig graves (Overseer’s Ledger 1884-1914). Being “sexton” here does provide some indication of status in the Schaghticoke village community. There is nothing here to establish the character of the “ceremony” as a “native American burial,” irrespective of the boughs, especially given that the funeral was conducted by a non-Indian pastor and a non-Indian funeral parlor.

Cogswell’s activities characterized by the STN as “liaison,” especially providing information to reporters, are discussed in part under the separate discussion of the rattlesnake hunts, below. There are several reports, other than in the context of the rattlesnake hunts, where Cogswell is the evident source of stories and information about the reservation, for example “Circling Schaghticoke Lands,” 1910. Certainly there is a fairly constant volume of large and small news accounts about the rattlesnake hunt itself, some of which apparently came from Cogswell, although others did not. To the extent this activity was on behalf of the club, it is not evidence of political influence within, or political action on behalf of, the Schaghticoke.

Irving Harris in new interviews submitted in response to the PF explicitly denies the existence of tribal political processes in the pre-Bearce era, before the 1930’s, saying that there was no chief after James H. Harris died (CT Interview, Harris 6/10/2003). He does attribute significant leadership status to James Harris, consistent with Howard Nelson Harris subline family views in other and earlier oral history interviews, but supplies no details. After Harris died, according to Irving Harris,

As far as I know, at that period of time, there was actually no Schaghticoke government. There was people living on of [sic] reservations. The Russells, the Cogswells, and the Kilsons. They worked as individual families, whenever they had problems they worked as individuals. There was no chief, there was no council, there was nobody.

Harris does not differentiate time periods between 1909 and 1967 in this general statement.

Notably, although Cogswell and Harris are frequently mentioned in the numerous accounts of the rattlesnake hunting and the club in this era, they are essentially never referred to as “chief” in the account and are never described as being tribal leaders in any of the accounts of their activities surrounding the rattlesnake hunt. An exception is one reference to George Cogswell as “chief” as well as president of the club (Rattlesnake Club 5/21/1906). Otherwise, the two men are consistently and frequently described as “well-known,” and their character and knowledge is praised. Their rattlesnake hunting activities and knowledge are described, and it is evident that they had a lot of contact with non-Indians. Nonetheless, these descriptions do not present them

as leaders of the Schaghticoke. The documentation and additional analysis for this FD do not change the conclusions of the PF in this regard. There is no substantial evidence for Cogswell or Harris or any other Schaghticoke acting as leaders in the early 20th century.

The Schaghticoke Rattlesnake Club

The STN response to the PF emphasizes the Schaghticoke Rattlesnake Club as evidence to demonstrate political influence and leadership within the Schaghticoke. The STN argues that the Rattlesnake Club was “organized by the tribe for the tribe’s benefit” (Lavin and Crone-Morange 8/4/2003, 44). They further argue that the club was dependent on the tribe’s permission to enter on its reserved lands and on the tribe’s lore and knowledge of the reservation. The STN’s comments state that the “Tribe’s traditional knowledge about rattlesnake habits and the Reservation environment [was] not shared with outsiders.”

The Timeline report argues that “although the Club was comprised of many non-Schaghticoke Anglos seeking adventure, it had its roots in traditional Schaghticoke snake lore” and “it was organized by the Tribe for the Tribe’s benefit” (Lavin and Crone-Morange 8/4/2003, 44). Further,

Without (1) the Tribe’s traditional knowledge about rattlesnake habits and the Reservation environment not shared with outsiders, and (2) Tribal permission to pass over its Reserved lands, those Anglo club members would never have been able to snake hunt on the Reservation.

Tribal leaders George Cogswell and James H. Harris prepared for and coordinated the hunts, other Tribal members cooperated to make the rattlesnake hunts both an economic and socio-political success (Lavin and Crone-Morange 8/4/2003, 44).

The STN argues that the rattlesnake hunt was a deliberate strategy by leaders to publicize “the Tribe’s traditional rattlesnake lore and handling,” citing the involvement of many newspapermen in the club. This strategy was “much to the economic and socio-political advantage of the Tribe,” giving a positive image helpful in dealing with non-Schaghticoke.

Evidence cited in support of the club’s hunts as a community effort includes the maintenance of the trails on the reservation leading to the snake den, and a sheep roast or “barbecue,” held afterwards at George Cogswell’s house. STN claimed economic leadership was shown by the preparation and “performance” of the early 20th century snake hunts. It argues that the rattlesnake hunts Cogswell and Harris organized for outsiders were “a pooling of resources and coordination of communal labor”(Lavin and Crone-Morange 8/4/2003, 25-26). Thus it is not the club itself, which was admittedly largely non-Indian, but the claimed tribal sponsorship and execution of the rattlesnake hunting activity which it is argued demonstrated political processes.

Documentation indicates the club may have been organized as early as 1889 newspaper (Rattlesnakes in 1889, 5/14/1909), at a time when the Schaghticoke reservation population was larger and more diverse than in later years. George Cogswell appears to have been the central Schaghticoke figure from its beginning. The description in an 1895 notice indicates the club's membership was largely drawn from non-Indians in the immediate area (Rattlesnake Club 3/15/1895). The description indicates it initially was not a formal organization, although officers were apparently elected from the beginning. The notice mentions three non-Indians who were prominent in the club, and George Cogswell, as the people who began the annual hunt in 1889. John Monroe, a local non-Indian, gives an account that indicates the local origins of the club, but gives no indication of tribal activity in its formation which, as described, appears somewhat serendipitous.

References to the Club in a 1905 article also seem to show that the membership of the "Bull's Bridge Rattlesnake Club," was being drawn from the local non-Indian population, although at least one officer was from Bridgeport.⁷¹ Nothing is mentioned about the local newspapermen or New Yorkers, who are prominent at little later. John Monroe, a local non-Indian, is still central (Rattlesnake Den 5/12/1905). By contrast, in 1910, the officers are largely drawn from outside the immediate Kent area. References in 1907 and 1909 to the "fourth" or "sixth" annual hunts may reflect to a reorganization of the club on a broader scale at some point after 1900. At this point there is substantial publicity in newspapers as far away as New York City, and deliberate invitations to newspapermen and others in that city and elsewhere to come and participate. In this period, there is a formal letterhead for the club, and some of the non-Indian officers are from locations outside the immediate area of Kent (Howell to Sir 1907).

The Rattlesnake Club itself was not "tribal" in the sense of its membership. There were approximately 50 to 100 individuals in the club, all of whom were non-Indians except for Harris and Cogswell. The two men effectively functioned as local hosts and guides to the reservation for the rattlesnake hunts. Cogswell, one of the founders, was president and Harris was scout. After Harris died in 1909, Cogswell was elected "scout" (Village and Vicinity, 5/27/1910). The office of "medicine man" was held by a non-Indian. There was no evidence of any of the Schaghticoke being involved in the election or appointment to these offices.

There is no suggestion of State or overseer involvement at any point in the club's operations, and no mention of it in the overseer's accounts. Thus the overseer seems to have played no role in the club, or rattlesnake hunting in general, either to support it or oppose it.

There is no evidence to show that the Schaghticoke as a whole were involved in creation of the Rattlesnake Club. The one account of its initial organization suggests it was created by George Cogswell and various local non-Indians (Rattlesnakes in 1889, 5/14/1909). There was no evidence that the apparent expansion and reorganization of the club around 1900 to involve many non-Indians from outside the immediate area, involved the Schaghticoke themselves.

⁷¹Bull's Bridge is the non-Indian settlement closest to the reservation.

There is no specific evidence to show that the Rattlesnake Club was a strategy to enhance the Schaghticoke's stature or public image. The events had great visibility in the area, and, apparently, elsewhere in Connecticut. George Cogswell, at least at times, provided information to local papers about the hunt, likely as part of the publicity mechanism for the hunts. That mechanism, in the later era at least, was extensive, with press releases and invitations to newspaper writers. However, this does not demonstrate that this effort, of which George Cogswell was only a part (the rest being the other, non-Indian officers of the club) was a tribal activity. Publicity in this era was clearly a function of the non-Indians, e.g., the secretary sent out form letters and notices to the newspapers. There is documentation, however, that Cogswell was the source of information for some of the local notices, and apparently one of the reservation residents most likely to talk to reporters.

There is little evidence to provide a basis to establish tribal interests on the part of Harris or Cogswell, *i.e.*, interests which extend beyond likely individual motivations. There is nothing substantial or direct to show that Harris and Cogswell participated in the club and its activities to promote the Schaghticoke's interests as a tribe, such as to promote a positive image. On the other hand, there is no indication whatsoever that they were hired and paid to lead the hunts. An economic incentive for Harris and Cogswell to support this organization, other than the opportunity to sell baskets and other items, probably cannot be documented at this time.

A critical issue in evaluating whether the club's activities and the preparations for the hunts were a community effort, is whether most of the Schaghticoke, at least most of those resident on the reservation, were involved or whether the club was almost entirely the activity of James Harris (up to 1909) and George Cogswell as individuals. Of the local residents, only Cogswell and Harris were involved in the actual hunt, although James Harris' son, Edson Charles Harris, was involved in hunt preparations such as in "salting" the area with rattlesnake (Rattlesnake Den 5/12/1905). Either James H. Harris, his son Edson Charles, George Cogswell, or the community, appear to have kept up the trail to the rattlesnake den, located about a mile from the houses where the Club expeditions started.

There is no evidence that other Schaghticoke were involved in the hunt itself or the related activities. A comparison of those described as involved in the club's activities with the resident population indicates that this was not a community activity. None of the children of George Cogswell lived on the reservation after 1903 and none were mentioned in connection with the club. The only members of James Harris' family that were mentioned were his non-Indian wife Sarah (Sally), his son Edson Charles, and his daughter "Alice."⁷² There was no mention of involvement of the two adult children of James Harris (Grace and Elsie) and their families who were living on the reservation, even while James was alive. After 1913 none of the Harris families were

⁷²This reference may be to Jessie Harris, birthdate 1891. According to one source, "Jessie Harris was often called a Princess. During the spring rattlesnake hunts she dressed in Indian costume, was pictured and written up in the papers as a full blood Indian Princess" (CT Genealogy Charts post 1935 C:\FAIR\079_Doc_Images\BR\V004\D0094.TIF Bates page 38 of 57).

on the reservation. There was also no indication that any of the adult Kilsons, such as Bertha Kilson and Mary Ett Kilson or their families who were resident on the Schaghticoke reservation from 1892 to 1920, were involved in the Rattlesnake Club activities. Value Kilson was 76 in 1900 and probably too old to participate, as were Rachel Mauwee (1812-1903), and Abigail Mauwee (1828/1833-1900). There was no evidence that Schaghticoke living off the reservation were involved with the Rattlesnake Club hunts.

The Timeline report, referring specifically to 1906 and 1909, stated that “the tribe sold baskets after the hunt” indicating the hunt was a vehicle to sell baskets, and thus part of the larger socio-economic strategy (Lavin and Crone-Morange 8/4/2003, 86). There is some, though not extensive evidence of basket selling at the hunts themselves, though it was common enough in this era (see below). There is no evidence it is a tribal strategy. That some effort and motivation was involved in putting on the hunts is shown by the fact that James Harris' wife, Sarah, a non-Indian, in at least one instance was making baskets as “souvenirs” for the rattlesnake hunters at the annual hunt. She made more than 20 baskets for the 1909 hunt, a substantial effort. Sarah also took orders at the same hunt to make additional baskets (At the Rattlesnake Den, 4/23/1909). The selling of baskets by a family member of one of the two Schaghticoke involved in the hunts would not necessarily make it a community effort.

Overall, there is not significant evidence that selling baskets at the rattlesnake hunt was a community effort, nor was there good evidence for the time period this might have occurred. It does lend color to the idea that some economic gain was derived from the rattlesnake hunt, if not from selling baskets.

The activity claimed by the STN as evidence that the hunt, or the preparations for it, was a community effort that is most often mentioned in the record is the “barbecue” or “sheep roast” after the hunt. Documents show they occurred in a number of years. These meals were held at Cogswell’s or Harris’ house. Some considerable effort was probably involved in the sheep roast/barbecue, even though it was apparently paid for by the “dues” of the Club. It is not clear that these feasts were held before the apparent “reorganization” of the Club’s activities into a larger scale effort after about 1905.

In some years, the Rattlesnake Club charged a five dollar fee as a kind of “tour package” for those coming from outside the area. STN cited this “charge” as evidence that the hunt was a tribal activity involving political leadership. The references in contemporary documents to club “dues” are to a fee of five dollars for participants to be picked up, go on the hunt and attend the “feast” afterwards. The references appear in the notices sent out by the club itself. There was no evidence to support the STN claim that the dues were levied by the Schaghticoke themselves. Since part of the charge was for the meal after the hunt, this money presumably went to James Harris or George Cogswell.

Culture Keepers

The STN comments in response to the PF renew part of the arguments presented in their petition that there were “culture keepers” and that these individuals' activities demonstrate tribal leadership. The Timeline report identifies James H. Harris (1850-1909), George Cogswell (1840-1923), Bertha Kilson (1879-1939), and Charles Kilson (1860-1935) as culture keepers. The basic argument is that culture keepers were leaders because they passed down Schaghticoke traditions and knowledge. The STN claim of cultural transmission is more limited for the post-1900 period, especially after 1909, than it is for the 19th century. The arguments presented are more limited than those dealt and rejected in the PF, focusing only on basket-making and snake hunting and handling lore as the traditions passed down.

The PF concluded that there was little evidence showing that traditions and stories were passed down in the 20th century, except within individual family lines, showing only some preservation of culture but not “culture keepers” as leaders in the sense of playing this role for a community as a whole. There was nothing in the STN analysis presented in response to the PF to change this conclusion.

The PF concluded that the present-day ascription of a spiritual character or supernatural power to snakes represents a recent idea. The STN response renews its original claim, stating that there was

mythology on the origin and purpose of Schaghticoke rattlesnakes, the telling and retelling of snake stories, the learning and passing on of snake habits and a snake bite antidote, and a spirituality towards the rattlesnakes. Snakes were often kept in cages in Schaghticoke homes like pets and referred to as the Tribe’s “spiritual animal” (Lavin and Crone-Morange 8/8/2003).

There is not substantial information to indicate such beliefs were common in the early decades of the 20th century when the Rattlesnake Club and rattlesnake hunting was common. The common commercial exploitation of the snakes by Schaghticoke, by selling skins or venom, or the Rattlesnake club hunt itself, suggests otherwise.

Background to the STN’s argument for cultural maintenance and transmission in the 20th century is their review of latter 19th century data, describing those the review considers culture keepers by virtue of preserving and passing down knowledge, stories and other cultural items. (Austin 8/8/2003e, 20-21). STN describes as prominent examples Rachael and Abigail Mauwee, and earlier, Eunice Mauwee. The STN references the survival of traditional culture as evidence of political processes in the 19th century. The report states that “As a person who was knowledgeable about traditional culture and passed it on to the Tribe’s younger members, Rachel Mauwee should be seen as a leader for the community. Her role as a cultural consultant to non-Indians can also be seen as a form of providing leadership on behalf of the tribe.” The STN cites an 1894 article about Rachel Mauwee having made dyed baskets, arguing that making baskets in

this manner by known Indians is evidence of survival of traditional Indian culture. STN argues that James H. Harris was also shown to be a culture keeper, citing linguistic and other information he provided to Speck.

While there is some indication that there was some retention of cultural knowledge at the end of the 19th century (see Speck, others), it is not established that this continued into the 20th century after the death of the older individuals who were still living in the latter part of the 19th century. Rachel and Abigail Mauwee, and James H. Harris and the few others, such as Value Kilson, who may have known some of the traditional culture, all died before 1909. One report by a Schaghticoke who has studied the group's history indicates that Schaghticoke basket-making by the turn of the century had changed to a more utilitarian style of basket-making, in contrast to 19th century baskets which were apparently distinctive in style for the Schaghticoke (Lamb report). It was not shown that Rachel Mauwee had in fact passed on specific Schaghticoke style of basket-making to the next generation.

The STN offers detailed evidence which supports the claim that some cultural traditions concerning basket-making and rattlesnake lore continued among the Schaghticoke until at least the mid-20th century. There is some evidence to support the claim that some kind of "lore" concerning rattlesnakes, in the sense of how to find and handle them, may have been passed down, but not for the claimed spiritual beliefs. The evidence for this is the substantial number of individuals that are known to have been rattlesnake handlers (Lavin and Crone-Morange 8/4/2003).

While there is some significant evidence of these traditions, the examples offered of transmission of tradition almost entirely described continuity within a given family line, citing data indicating that succeeding generations within that family had learned one or another of these "traditions." Concerning rattlesnake handling, the Timeline report identifies three such leaders: James H. Harris (1850-1909), George Cogswell (1840-1923) and Charles Kilson (1854-1935).⁷³ The text identifies a number of first and second generation descendants of these individuals who were also reportedly snake handlers. The implication of this presentation by the petitioner is that the transmission of snake lore and knowledge was specific to each family line, without showing interfamily cultural leadership. The report charts individuals in each line, and does not attempt an exhaustive list of Schaghticoke snake handlers. The individuals cited as having this knowledge reach as far forward in time as to Russell Kilson (1932 to 2003) for the Kilsons, Howard Nelson Harris (d. 1967) for the Harrises, and, for the Cogswells, George Cogswell's sons Frank (1869-1954) and William T. (1867-1942) and his granddaughter Julia Cogswell Parmalee (1894-1975).

Thus, there is good evidence that a substantial number of men, and some women, were familiar with rattlesnake hunting. However, it is clear also that this knowledge was not limited to

⁷³Charles Kilson (1854-1934) was a resident of the reservation. He is not otherwise substantially recorded in the record. He was brother of Mary Ett Kilson, also a reservation resident, through whom the present Kilsons descend from Alexander Value Kilson.

Schaghticoke but shared at least to some degree by non-Indians resident in the area. Cogswell and Harris were clearly experts, though their lore appeared confined to knowledge of how to hunt and handle the snakes, with no evidence it extended to legends, myths or other cultural beliefs. There is no reference to such beliefs in the various accounts of the Rattlesnake Club nor in Speck's ethnographic report. Thus, the "tradition" handed down is limited and would not constitute significant cultural differences from non-Indians. Such knowledge does not have to be limited to the Schaghticoke for these individuals to have been experts, especially in relation to non-locals.

There is, thus, little or no evidence of these named Schaghticoke individuals as culture keepers who demonstrated a form of leadership. There is a limited degree of evidence of transmission of cultural ideas that was shared on a reasonably wide basis within the group. The available information is better evidence to show community, possibly as a shared body of knowledge, than it is evidence for leadership. The individuals involved here do not fit the definition of "cultural leader" (see Mohegan), where an individual functions to preserve and transmit culture for the entire group, and is recognized as fulfilling that function. Thus, there is not good evidence here for political leadership of James Harris, George Cogswell, and the others cited, based on their expertise as "culture keepers."

Other Specific Arguments

The STN's reports present a number of other, detailed analyses of specific facts and events to demonstrate political processes from the 1890's to the 1930's. These are reviewed below.

The record for the FD includes more of the overseer's account books for the 1890's to the 1920's than were available for the PF. The STN cites an item appearing in the July 5, 1903, ledger which appears to indicate that Overseer Martin Lane took some of the Indians with him on one of his trips to the Court of Common Pleas to report on his activities or to seek authorizations. This item entry appears to record a half day in court: "went to court--Indians and M. Lane" (Overseer Ledger 1884-1914, 97).

A second entry, on July 10, 1905, says "Value and Mary and George and self, fare - 2.65," and includes the words, inserted above "about contract," along with a notation of paying for three dinners (Overseer Ledger 1884-1914, 105). The STN report identifies the Indians as George Cogswell, Value Kilson and Mary Kilson (presumably Mary Ett Kilson). The STN report notes the absence of James Harris, speculating that he might have been working that day. The format of the payment is consistent with the charges the overseer made for court appearances, but there was no clear identification of the occasion that precipitated the court appearance. The accounts were apparently settled on July 10, 1905 (Overseer Ledger 1884-1914, 102, 105). A notation on the next page, also for July 10th, referenced money and mortgages "placed in my hands this date" (Overseer Ledger 1884-1914, 106). Although the reference in the ledger next to the three Indian names is to a "contract" of some kind, the STN suggests that the date corresponds closely with the appointment on July 14, 1905, of Frederick Lane to replace Martin Lane who had died, as

overseer of the Schaghticoke (Austin 8/8/2003e, Overseer Ledger 1884-1914), suggesting the Schaghticoke had been consulted on his appointment. There was no specific evidence to establish such consultation or to link the reference to a contract to the naming of the new overseer.

STN interprets these events as instances of consultation with the Indians on matters concerning the reservation. That these might be consultations is a reasonable inference, given the pattern of Lane's appearances at the court in this period, where he often appeared unaccompanied. Alternatively however, these two examples might have been the result of some particular damage incurred by these individuals, deriving from various actions of the overseer between 1900 and 1904[?] which concerned the sale of part of the reservation land to the New Milford Power Company, to facilitate the building of a power dam on the Housatonic River. There is an example elsewhere in the ledger of damages being paid to Value Kilson (Overseer Ledger 1884-1914), although the nature of the specific loss is not stated. There is insufficient information in the record to establish that the overseer was consulting with the Schaghticoke community in these two instances.

The STN also argues that a proposal in 1907 to establish a game preserve near the reservation was evidence of Schaghticoke political processes. There is little evidence in the single, reasonably detailed newspaper article concerning this proposal to suggest a role for Schaghticoke members, or even for George Cogswell (Day in Kent 7/5/1907). There is strong evidence that it was developed by a substantial number of non-Indians, evidently of some local prominence, who were involved in the Rattlesnake Club. Establishment of such a preserve would seemingly have provided an alternative to the snake hunts on the reservation, hence would not on its face have been to the benefit of the Schaghticoke.

Evidence for Political Influence or Authority: 1926 to 1967

Summary of the Proposed Finding

The PF concluded that the Schaghticoke did not meet criterion 83.7(c) from 1926 to 1967. It concluded in part that "there was little or no evidence to support the petitioner's claims that various other individuals exercised leadership on the reservation between 1900 and the 1950's" (STN PF 2002, Summ. Crit., 27). The finding noted that "There are no named Schaghticoke leaders with whom the State dealt between 1900 and 1967." The PF went on to note that "One State report, and a report by the U.S. Indian Service, both in 1934, which said that there were no Schaghticoke leaders recognized by the Schaghticoke" (STN PF 2002, Summ. Crit., 27).

The PF reviewed the petitioner's claims that various individuals, including William Cogswell and his brother Frank Cogswell, had been leaders after the death of their father, George Cogswell (STN PF 2002, 149).

The PF concluded that although there was some evidence of political activity especially between 1949 and 1959, in the form of a council organized by a non-Schaghticoke, Franklin Bearce (aka

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Swimming Eel), to deal with the Indian Claims Commission and some other matters, there was not enough evidence to show significant political processes in that era.

The PF concluded that the Bearce led council might have had dealings with the State on these matters, but did not find direct evidence of this (STN PF 2002, 137). The evidence for contact with the State consisted of several references on the part of Bearce stating that the Commissioner of Welfare had provided advice on claims, and indications of plans to address the legislature concerning housing problems, in one instance referencing a specific letter Bearce said the council had received (Bearce to Russell 6/29/1949).

The PF interpreted the available evidence to show that the Bearce-organized council primarily functioned between 1949 and 1959, with some evidence of contacts with Bearce and identified leaders before that period and some between 1959 and 1969. The analysis and materials for the PF concluded that there was some evidence that there had been meetings and some degree of organization which preceded the 1949 council that was not reflected in the documentary record available for the PF (PF 133-134). These accounts described "informal powwows," on the reservation, drawing in non-residents, possibly on a regular basis during the 1940's. The PF noted that "This would be consistent with the information that Bearce was active with the Schaghticoke since probably the later 1930's and had called a meeting in 1946 concerning claims."

The PF concluded there was no basis for the petitioner's claims that Howard Nelson Harris had become chief in 1909 when his father James H. Harris died. There was not evidence to show that he had exercised a significant political role from 1949, when he was elected chief, until he died in 1967.

William Cogswell and Frank Cogswell, 1920's to 1953

For this FD, OFA reexamined the evidence concerning Frank Cogswell and William Truman Cogswell, sons of George Cogswell, reviewing new data and re-analyzing data already in the record. The two men are identified by the petitioner as leaders after George Cogswell's death. Both are identified in oral histories and some contemporary records as "chiefs." They were also active from the earliest period of Franklin Bearce's involvement with the Schaghticoke, the 1930's.

The petitioner asserts that the leadership of William Cogswell was important during the 1920's through his death in 1942 (Austin 8/8/2002, 42). A chart in the petitioner's "Timeline" report (Lavin and Crone-Morange 8/4/2003, Table 1) credits William Cogswell with having led tribal meetings and social gatherings between 1916 and 1925, having being elected sachem circa 1931 to 1933, and references his having been involved in the 1939 or 1940 powwow. There was no evidence cited in the chart or associated report, nor found in the record, to substantiate the chart's listing that William Cogswell held tribal meetings between 1916 and 1925.

William Cogswell was apparently one of the earliest Schaghticoke to become involved with Franklin Bearce. William Cogswell's obituary in 1942 referred to the him as "a Pequot Indian chief of New Milford" and as a member of the Federated Eastern Indian League (*New Milford Times*, 12/17/1942, 5). Bearce was a leader of the League, a pan-Indian organization active in the 1930's and 1940's. The organization was instrumental in the organization of the Schaghticoke powwows from 1939 to 1941.

Earlier involvement with Bearce, and a possible leadership role, is indicated by oral histories cited by the STN which stated that William Cogswell had been elected sachem by the tribe circa 1933-1935.⁷⁴ Members of the Cogswell family line recently stated "As far as we knew, William Truman Cogswell [the interviewees' grandfather] was the high sachem" (Cogswell Family Interview, 11/15/2001, 92). According to one interviewee he was ill with diabetes in the years preceding his death in 1942 and his legs had been amputated. The interviewee concluded that he was probably unable to perform as chief towards the end of his life (T. Lamb). He was well enough to perform some functions as a kind of "greeter" during the 1939 powwow, however.

An assertion by STN that William Cogswell functioned as a leader by collecting baskets from different Schaghticoke women and selling them rests on a single oral history. The brief mention in an interview of a non-Schaghticoke, two of whose family members married Cogswells, does not provide a basis for demonstrating that William Cogswell did this except for a few women among his own immediate relatives (K. Richmond interview).

The PF concluded there was little evidence that William Cogswell had been a leader, although he was occasionally identified as chief in documents and referred to as sachem in oral histories from the Cogswell family. A review of the evidence in the record does not change this conclusion with regard to the time period 1923 to the mid-1930's. The evidence does not demonstrate that William Cogswell had any substantial role as a leader of the Schaghticoke, except possibly in the context of the organization and efforts from the mid-1930's on led by Franklin Bearce. The significance of those efforts is evaluated below.

The PF found only limited evidence to show that Frank Cogswell was a leader. He resided on the reservation from about 1925 until his death in 1953. The PF noted the Schaghticoke's 1975 response to an interrogatory described him as "sachem" circa 1940, and identified him as the "Cocksure Sachem at Schaghticoke," referred to by Bearce in letters to ethnographer Frank Speck in 1939 and 1940 (Swimming Eel to Speck 6/16/1939, Swimming Eel to Speck 1940). According to an interview cited by the petitioner for the PF, however, only one of these letters referred to Frank Cogswell, the other reference being to Theodore Cogswell, Sr.

The STN response to the PF again identifies Frank Cogswell as a leader. The chart of leaders appended to the "Timeline" report briefly describes specific claimed activities of Frank Cogswell

⁷⁴There was no corroboration of this date. Statements by Franklin Bearce suggest the date may have been closer to 1936 (see below).

(Lavin and Crone-Morange 8/4/2003, Table 1).⁷⁵ The chart listed as evidence of Frank Cogswell's leadership activities keeping a register of outsiders who visited the reservation, acting as liaison between the Schaghticoke and outsiders such as newsmen, anthropologists and others, writing a news article, representing the tribe at the 1926 Rattlesnake Club reunion, and making a presentation to the governor of the State at the 1939 Indian Day powwow. For the period between 1946 and 1955 the chart claims that he called tribal meetings on the reservation, and notes that he was identified by the State as "chief" in Welfare Department case summaries of tribal members (Lavin and Crone-Morange 8/4/2003, Table 1).

Some evidence concerning Frank Cogswell and possible early pan-Indian involvement is seen in photographs taken on the Schaghticoke Reservation in 1933 and 1935 by Lewis S. Mills, an author of local history (Document SN-V022-D0130, SN-V022-D0126 & SN-V022-D0130). The photos show individuals in "regalia" and participating in some kind of a ceremony. The captions identify the photos as being of Schaghticoke Indians in 1933 and 1935. One photo is captioned "Frank Cogswell. A Scatacook Indian of Kent 1933." Frank Cogswell traveled widely around the northeast, attending ceremonies and events at various Indian groups and could have established pan-Indian contacts in this fashion.

According to the petitioner, an interview with a non-Indian friend of some Schaghticoke families indicated that Frank Cogswell, Robert Kilson and Earl Kilson had given them permission to come on the reservation, and "didn't just allow anybody to come up there" (Moser 1996:18-20). The interview provided no detail and there was not corroboration from other interviews for controlling access to the reservation.

The "Timeline" report chart cites the fact that Frank Cogswell kept a notebook of reservation visitors as evidence of his leadership. The source cited for this information actually states that it was a record of those who went on the rattlesnake hunts (Cogswell Family interview 53), rather than a register of all visitors. Presumably this is the same notebook that is referred to earlier in connection with George Cogswell, since Frank Cogswell is not mentioned in connection with the Rattlesnake Club functions except in 1926. Frank Cogswell lived away from the reservation much of the time the Rattlesnake Club was most active. A 1926 article describes this notebook as a "register" of "pilgrims" who visited the reservation. There was no evidence of its usage after 1926. There was no evidence that the register of visitor or hunters showed that either George or Frank Cogswell used this as a device to control access of non-Indians to the reservation.

Frank Cogswell was listed on the top of the list of officers on the letterhead of a 1943 letter as Sachem in the Bearce-led organization (see also discussion of the Bearce-led organization below) (Bearce to Zimmerman 6/11/1943). Bearce did not identify him as one of the officers elected earlier, in approximately 1936 (see below). An obituary in 1953 listed him as "unofficial tribal chief" (cited in FTM Remarks, F. Cogswell). Cogswell did represent the Schaghticoke at the 1939 powwow (Kent, 10/6/1939). A lengthy article about his life, published in a newspaper in

⁷⁵Some items are out of place chronologically, i.e., placing a Rattlesnake Club reunion in the 1930's.

approximately 1940, says nothing about him being a chief, sachem, or leader. However, Frank Cogswell's case record for the Office of the Commissioner of Welfare contains the notation "Indian Chief."⁷⁶ The Schaghticoke 1975 interrogatory response also identified him as having been chief.

There is a reasonable amount of evidence that Frank Cogswell was identified as a leader during his later lifetime, from the early or mid-1930's until his death in 1953, but not earlier. A number of oral history accounts identify him as a "chief." Most do not describe specific actions as chief, though they connect this position with his residence on the reservation. The evidence does not substantiate that he had a significant role as a leader separate from the office he held in the organization established by Bearce and the activities of that organization. The evidence suggests otherwise. It largely concerns ceremonial titles and activities, which alone is not evidence of leadership.

The Franklin Bearce (Swimming Eel) Era, 1930's to 1967

The State argues that Bearce era council did not exercise political authority, stating that it was short-lived, was largely ineffectual and inactive, and lacked broad support or involvement of the Schaghticoke membership (CT *et al.* 8/8/2003, 69). According to the State, without Bearce's presence there would not have been a council or activity. The State argues further that Howard Nelson Harris and others identified as leaders in this period did not have a significant following, referencing in part an interview by the State with his son Irving Harris (CT *et al.* 8/8/2003, 70). The State claims that there was "a complete absence of activity in the late 1950's and early 1960's," quoting Catherine (Harris) Velky (CT *et al.* 8/8/2003, 72).

The available data does not indicate that Bearce devoted all of his time to Schaghticoke, although he claimed Schaghticoke ancestry as early as 1933 (Bearce genealogy). He was also a member and officer in a variety of pan-Indian organizations, and carried out other activities (War Drums, 1946). One of these organizations, the Federated Eastern Indians League, was his primary vehicle for dealing with the Schaghticoke. A number of Schaghticokes joined that organization.

The STN asserts that the political activities led or facilitated by Franklin Bearce (aka Swimming Eel) began with land claims lawsuit in 1936. Bearce claimed in later documents that he filed such a suit in the U.S. Court of Claims in June 1936, referring to it in documents from the 1950's filed for the Schaghticoke claim before the Indian Claims Commission (ICC) (Bearce to Langston 8/11/1949, Hearn 9/28/2003, 75). The STN reported that a search did not uncover documentation of such a lawsuit. OFA's search of the indexes for the Court of Claims did not locate a Schaghticoke land claims suit in the 1930's or the early 1940's.

⁷⁶The notation only appears in one of the several otherwise identical copies of this document in the record (see also SNV019 D0117). There was no indication when the notation was made, though the document contains notations from 1942 to 1954.

Whether there was an actual suit or not, there is sufficient detail in the documents to indicate that substantial activities and organization occurred in the 1936 to 1939 time frame. Bearce in writing to the clerk of the ICC in 1951, in apparent response to a question in a letter from the latter, says “yes, some documents are filed [*sic*] original Schaghticoke claims with the court of Claims in 1936” (Bearce to Langston 2/20/1951). Bearce goes on to detail the degree and manner to which the earlier claims were revised for the ICC filing. Several of his documents in this era refer to the ICC claim as a “revised” one.

One later document by Bearce suggests that he established some form of organization in the 1930's, as a result of or in response to perceived efforts by the State to sell the reservation (To all Reservation and Isolated Kent School Indians . . . 5/16/1955). The document's references are not entirely clear, however. In a letter to the Schaghticoke, he states that when he came “back to Connecticut,” apparently referring to 1933, he petitioned the State Park and Forest Commission for himself, his sister and his cousin to be registered as “isolated Kent Schaghticoke” Indians. Bearce then states he has correspondence from Turner, the “field secretary of the Commission” showing he was accepted but that the Turner wanted him to go to the reservation and he refused. Bearce then states “at that time the Baldwin regime attempted to sell the reserve to Kent School that was blocked the tribe reorganized William Cogswell senior was elected Sachem, Kilson and Howard Pan Harris Sagamores and the Eel medicine man [all *sic*].” The dates when Baldwin was governor and Turner was field secretary were not determined. Baldwin was governor in 1939, and possibly earlier, and Wheeler was field secretary in 1926, soon after the Commission was given responsibility for the reservation (Turner to Wheeler, 06.04.1926). If this account is accurate, it indicates that a Schaghticoke council, or at least a set of officers, was established as early as 1936, a process Bearce characterizes as “the tribe reorganized.” It also indicates that this organization might have been established in response to the perception that the State was planning to sell the reservation.⁷⁷ This perception might have been triggered in some fashion by the 1935 transfer of the other Connecticut tribes to the Park and Forest Commission. Contrary to this apparent expectation, substantial new State appropriations were made for the Schaghticoke in 1936 and 1937.

In 1943, Bearce wrote to the U.S. Indian Service on letterhead showing a set of Schaghticoke officers (see below) protesting “We have three reserves in CT, wards of the State as proxy to the National Govt. 29 Pequots, 39 Mohegans and 37 Schaghticokes my people” (Bearce to Zimmerman 6/11/1943). The letter says further “1940's 1-2 Dept of the Interior send agents to make treaties to take us over as wards of the National government. They see the Sachem and war sagamore at Schaghticoke. My people meet in council and decide not to jump from the frying pan into the fire.” There was no confirmation that anyone from the Indian Service or other part of the Federal government met with the Schaghticoke, whether with the individuals Bearce identifies as “war sagamore” (Earl Kilson and Henry Harris) and sachem (Frank Cogswell) or others, to discuss making them “wards” (i.e., Indians for which the Federal Government had a

⁷⁷There was no specific evidence that the State had such a plan.

responsibility), Gladys Tantaquidgeon visited various Eastern Indian groups in the 1930's as part of Indian Service consideration, subsequently abandoned, of providing services to these groups.

The STN suggests that Schaghticoke concern for defense of and preservation of the reservation began in 1925 with a letter from Julia (Cogswell) Batie to the Federal government concerning possible loss of the reservation. This letter coincides with the legislation placing the Schaghticoke under the Park and Forest Commission. Except for this isolated instance, there was no other evidence of Schaghticoke concern at that point in time. Batie was a frequent visitor to the reservation and resided there during the summers.

Concern with the possible loss of the reservation appears again circa 1936 in Bearce's claimed Court of Claims lawsuit in the sequence of 1939 letters generated by Bearce (Bearce to Baldwin 1939), and again in Bearce's 1943 letter to the Indian Service. This indicates that the ICC claim was not simply a response to the passage of the Indian Claims Commission Act in 1947, but was part of a continuing issue of the status of the reservation and lands earlier part of it. With regard to the latter, except for the land taking in 1903 in connection with the power dam, the last previous land sale had been in 1811. Following the failure of the ICC claim in 1959, Bearce immediately filed a similar claim in the U.S. District Court, with the support of at least part of the Schaghticoke. These issues were picked up by Irving Harris in 1967, with his efforts to reorganize the Schaghticoke, and culminate in 1975 when another land claims suit is filed, under his leadership. The PF also noted a number of letters in the 1960's from Schaghticoke to the State concerning the status and care of the reservation. This shows that the status of the reservation was a continuing issue.

STN asserts political authority was demonstrated through the evidence concerning the powwows held at Schaghticoke from 1939 to 1941 stating: "The fact that the Tribe was holding a Corn Ceremony also indicates political authority, since coordination and decision-making would be needed for the success of such a large-scale event" Lavin and Crone-Morange 8/9/2003). The STN's claim that the "tribe" was holding the Corn ceremony in 1940, one of the three "powwows," is belied by the correspondence of a man known as "Chief Buckskin Fowler," a non-Schaghticoke associate of Franklin Bearce, and by several related accounts of the powwows. These accounts clearly identify the event as a function of pan-Indian organizations (Indians Invade Darien 6/9/1940).

There is, however, some evidence that the Schaghticoke in some sense "sponsored" the event. The handbill for the 1939 powwow described it as "Under the auspices of The Schaghticoke and Algonquin Council of the Schaghticoke Indian Reservation: The Indian Association of America, Inc" (Handbill). A 1941 news article referred to that powwow as sponsored by the Town of Kent, "under the direction of the Schaghticoke council," listing Chief Grey Fox, a "Mohican" active in pan-Indian circles as chairman (Mills 8/1941). There was no evidence to show the nature of such an "Algonquin Council," which may, however, refer to the organization that Bearce instigated in the 1930's. There are many Schaghticoke oral history accounts of having attended one or another of these events, but nothing, other than Frank Cogswell's participation to

show that they played a significant role in organizing it. There is more substantial evidence for this FD that the events were largely organized and carried out by the Federated Eastern Indians League and Chief Buckskin Fowler's organization, the Council for American Indian Affairs. News accounts in 1942 stating that the planned event was being canceled because of World War II substantiate this analysis, referencing only the pan-Indian Federated Eastern Indians League as the authority for the decision to cancel (Corn Harvesting Postponed 7/31/1942). Frank and William Cogswell and others were members of the league.

The new documentary evidence definitely shows a governing body, designated as a "council," or at least a structured set of officers, in 1943, six years earlier than the 1949 council that the PF described. The letterhead on Bearce's 1943 letter to the U.S. Indian Service is divided in sections (Bearce to Zimmerman 1943). The list of officer holders in one section is instructive because it confirms other previously available sources that indicated some of these individuals were leaders. Further, these leaders are drawn from each of the three major lines: Kilson, Harris, and Cogswell. Frank Cogswell is listed at the top of this section of the page as "Sachem," Bearce is listed below him, in the same section, as "Pau-Wau Sagamore." In the next section, two men, "Howard Pan (Harris)" (i.e., Howard Nelson Harris) and Earl Kilson, are listed as "War Sagamore." The last officer listed was "Tribal Talley Keeper," is "Julia Co ck Su Re" [*sic*, Julia (Cogswell) Batie], with the "notation Schaghticoke Indian Reserve," possibly in reference to the entire list. The basic letterhead was that of Bearce, as "Chief Swimming Eel." The letterhead lists his affiliations with different pan-Indian organizations. The letter, together with the other evidence in the record, supports the oral history referenced in the PF indicating there were meetings with Bearce before the 1949 council formation. The 1949 council discussed in the PF, rather than being an entirely new organization, was based on preexisting officers and relationships, with some modifications to reflect the focus on claims before the Indian Claims Commission.

New evidence also confirms and extends beyond 1949 the PF's conclusion that Bearce conferred in 1949 on a regular basis with Howard Nelson Harris and William Russell (son of Grace Harris), as well as providing further evidence that he conferred with Cogswells and Kilsons. The pattern of office-holding, and oral history of his activities, indicates all three family lines were involved: Harris, Kilson, and Cogswell (e.g., Bearce affidavit of 7/10-18/1949).

Despite the earlier association with Bearce, and although he lived until 1953, there is little indication that Frank Cogswell was substantially involved in the Schaghticoke council or claims committee formed in 1949 or earlier in 1943. In a draft 1949 list of Schaghticoke members prepared by the council, he is specifically noted as declining to be enrolled, although the notation is at pains to comment that as a reservation resident he was eligible. This suggests that he may have been in conflict with the council at that point.

There is additional circumstantial evidence for the FD of the State Welfare Department dealing with Swimming Eel as leader in 1949. A series of letters from Bearce, not previously in the record, were written to or reference dealings with Clayton Squires, Commissioner of Welfare. The text of these letters strongly implies that they were replied to and also that there was regular

contact in which Bearce received advice and comments (see Bearce to Squires 5/23 and 6/12/49). The letters do not have the character of a “fanciful” one-sided relationship but of a specific, on-going relationship, at least for 1939 to 1949. The range of topics is fairly broad, *i.e.*, housing, claims, etc. By this time, the State had been hearing from Bearce for more than a decade. There is no suggestion in Bearce’s letters that Squires questioned Bearce’s position as “chief,” even though a year or two later Squires replied in the negative to the ICC when the commission inquired as to the Schaghticoke heritage of Bearce.

There is further information for this FD concerning Bearce’s activities after the 1959 rejection of the ICC claim. In 1963 he filed a Schaghticoke claim before the U.S. District Court in New Haven, and was denied. Accompanying the filing was a list of officers and council, substantially revised from the earlier ones, that did not include any Kilsos or HARRISES (Bearce, 5/11/63). Also incorporated in the filing was a “revised” membership list, which included people from all three families, including multiple branches of the Harris family, although it was well short of a complete enrollment. Howard Nelson Harris is listed, but his son Irving Harris is not. The Cogswells were strongly represented on the 1963 list. There were also some Bradleys (non-Cogswell Kilsos closely related to the Cogswells), as well as Johnsons (relatives of the Cogswells, but not Schaghticoke).

Bearce appears to have declined to appeal the verdict. He threatened to take the case directly to the Supreme Court, and also to sue individual title holders. These events occur in 1963, only a few years before Irving Harris would begin his activities.

The PF cited a letter from Bearce to Henrietta (Johnson) Peckham, which indicated that “Earl Kilson and family” would not cooperate and expressed concern that whites were putting on pressure. It is likely that the “cooperation” sought was to continue and/or appeal the lawsuit. A letter of May 8, 1963, not in the record for the PF, recounted this concern in more detail. This letter was sent to Theodore Cogswell, Sr., and “cc’d” to Henrietta Peckham and Earl Kilson, Jr.

This set of events, with a revised enrollment, makes it further unlikely that the families did not have some substantial contact with each other before Irving Harris’ reorganization and, provides stronger evidence of community and political processes in the decade between 1957 and 1967. It makes it more likely that the “pulling together” of families referenced by Irving Harris as occurring in 1967 was one of reconciling an on-going conflict, perhaps concerning the Court of Claims, rather than the bringing back together families that had had little or no contact for a long period. The picture presented by the oral history provided by Howard Nelson Harris family was that Howard Harris had been chief, had not been able to achieve much, and that Irving Harris took over at of the request of his dying father. Based on the evidence surrounding Bearce’s activities, it is more likely that there were two axes of leadership at the time Howard Nelson Harris died, one predominantly Cogswells, probably including some Kilsos and the Russells, and still led by Bearce, and another of Howard Nelson Harris and other HARRISES. The new data confirms the PF conclusion that in the early 1960’s, Bearce remained “allied mostly with the

Cogswells, specifically Theodore Cogswell Senior,” but changes its conclusion that he lost the Kilsons and the various Harrises in the late 1950’s (STN PF 2002, 144).

The new information revises the conclusions in the PF concerning Bearce’s contacts with Howard Harris, clearly verifying that these contacts predate the 1949 meeting by at least six years, and providing evidence that these contacts dated from the 1930’s. Further, the “council” organized in 1949 was not the beginning of the organization, though a specific committee was formed and the offices reorganized at this point. In 1949 Bearce refers to the organization formed then both as a committee and as a business council (7/10/49 actual minutes). The officers listed in 1943, predating the 1946 call by Bearce for a meeting on claims, was likely the precursor group of the 1949 council.

Despite the additional data concerning the Bearce-led council, there is no information showing whether there was a link between the council and the apparent Schaghticoke attendance at a 1953 state legislature hearing to consider terminating the reservations.

Howard Nelson Harris

The PF concluded that it had not been shown that Howard Nelson Harris had substantial followers or had carried out activities as leader. However, the PF also effectively raised the question of what his relationship was to the Cogswells who were identified as Sagamores in the post-1959 period, and by implication what his relationship was to the Kilsons. The PF was unable to determine whether there were multiple leaders, or simply multiple individuals with titles in this period.

While Howard Nelson Harris' death apparently triggered efforts by Irving Harris to reorganize and revitalize Schaghticoke, it is not the case that Irving Harris simply succeeded to a leadership position solely occupied by his father, as his own and his family’s oral histories suggest.

The PF also concluded that there was little or no evidence to show that Howard Nelson Harris functioned as chief before his election as chief (actually as “chief of the reservation”) in 1954. The STN comments for the FD do not renew the claim that Harris had at least nominally become chief after James Harris’ death in 1909, or at least after he had become an adult. This view that Howard Nelson Harris was nominally chief in 1909 is fairly widely reflected in the oral histories from older members of this subline, but has little material support in the documentary record. Irving Harris in the two interviews submitted in response to the PF characterizes the activities of his father, Howard Nelson Harris, as “titular,” denying that he carried out any significant activities, a view similar to that of Catherine (Harris) Velky noted in the PF. He does repeat in a limited form the story of how his father passed on the mantle of leadership to him that he expressed in the 1970’s. Nonetheless, Irving Harris does not offer evidence of a substantial leadership role for Howard Nelson Harris.

The additional evidence for this FD verifies the oral histories of significant contact of Howard Harris with Franklin Bearce before 1954, notwithstanding Harris' absence from the 1949 lists. He appears as an officer in 1943. The information concerning a "reorganization" of the Schaghticoke in 1936 (see above) indicates that Howard Harris became a "sagamore" at that time. Ancillary evidence is the certificate showing that his daughter, Catherine (Harris) Velky, was a member of the Federated Eastern Indian League in 1940. Her membership provides documentary evidence that the Howard Nelson Harris subline was involved with Bearce this early, even though the most extensive evidence indicates that it was the Cogswells who were the most closely affiliated with Franklin Bearce in the earliest years of his activities. The Kilson line's involvement before 1940 is demonstrated by the information concerning the circa 1936 reorganization and by Earl Kilson's preparation of arrows for the 1939 powwow.

Overall, Bearce managed to draw support from all three lines for extended periods of time. This evidence of involvement from all three major lines in the mid-1930's supplements the evidence cited in the PF that from 1949 on, that all three family lines were substantially involved.

Irving Harris and Catherine (Harris) Velky Interviews

Irving Harris' two interviews and Catherine (Harris) Velky's interviews characterize the pre-1967 situation as one where there was no government or leadership at all. Russell Kilson, offered a similar summary characterization. Irving Harris' discussion of tribal leadership equates it with the existence of a formal structure that carries out programs and the like. Given this context, Harris' comments are not dispositive of whether more informal leadership, of influence rather than specific action, existed. Notably, Harris is loath to characterize even his own time as Schaghticoke leader as "government," hence it is not surprising that he would characterize earlier eras as lacking in leadership. In doing so, he is, in effect, contradicting his own earlier statements concerning his father as having been a leader. The general character of the Catherine (Harris) Velky interviews and the new Irving Harris interview evidence is discussed above, in the introductory section of this finding. The comments in these interviews, cited by the State as negative evidence, are not definitive on the subject of political activity in the 1950's and 1960's.

Irving Harris generally downplays the significance of the activities of the Bearce-led council, including his father's activities in it. The particulars of his interview, however, add important information concerning the Bearce-led council and activities. Harris characterizes Bearce as "a friend" of his father's and confirms that Bearce had been in contact with his father from the early 1940's. Harris stated:

He came, yeah that was in the early 40's that was before during the War, during the War in 42 or 43 and a he knew my father but my father never questioned him, and my father was never that active because remember in those days you didn't travel like you do now (Harris 3/5/2003).

Harris also indicates that the meetings were not passive, but involved considerable conflict. He states:

the meetings were really nothing because uh a lot of times there was always a lot of arguing there would be a handful of people maybe 20 or 25 people at a meeting, and there's always arguing and stuff going on. I never sat in on a meeting, I didn't, I didn't get that involved (Harris 3/5/2003).

Pressed on the nature of the conflicts, he said "There was different colors of people" and a lot of people "didn't like some of the colors of different people I guess and uh there was different things said back and forth" (Austin interview). He did not provide further information concerning who the conflicts were between. There is clear evidence in his interviews that Harris attended at least some of the on-reservation meetings held by Bearce. He is able to provide these descriptions even though he insists that he was not involved and stayed outside when he took his father to the reservation for meetings. Also, the ideas he pushed in the late 1960's and early 1970's show clear descent from the issues that Bearce and the council in earlier years had promoted.

Harris also clearly describes the activities of Bearce, down to the typewriter he carried everywhere. He emphasizes the centrality of Bearce's knowledge concerning claims and laws, while also suggesting that his own father was the most knowledgeable of the Schaghticoke on those topics. This oral history is consistent with the documentary evidence which demonstrates that Bearce supplied the technical knowledge to pursue the claim.

1958 to 1967

The revised analysis for this FD indicates that the Bearce-instigated activities lasted for a substantially longer period of time than was evident for the PF. The following new analysis of post-1959 activities and political processes indicates that political activity continued after the 1959 rejection of the ICC claim.

The PF cited recent interview statements by two of the children of Theodore Cogswell, Sr., noting that the statements reflected the involvement of this portion of the Cogswell family in the Bearce created organization. The PF noted further that "Truman and Theodore Cogswell deny Howard Harris' status, claiming instead that they and their father had held significant offices, as originally appointed by Swimming Eel." The new documentation confirms the role of their father. The Cogswells gave the date of November 1960 as when their father was elected "high sachem." They also stated "We have no knowledge of Howard Harris being chief" (Cogswell Family Interview, 11/15/2001,119). After that statement, the interviewee stated, "My father, [Theodore Cogswell Sr.] who died in 1964, was the "High Sachem." It may be that the death of Theodore Cogswell, Sr., followed soon after by death of Howard Harris, left an opening for Irving Harris to pull the families back together politically beginning in 1967.

As the PF noted, the Cogswell family interview qualified the statements concerning who was chief, saying in reference to their father that “only certain families would have followed these leaders the Cogswells, the Kilsons, the Bradleys and the Johnsons, those basic families.” They then added the Russells (Cogswell Family Interview, 11/15/2001, 96), but did not refer to the Howard Nelson HARRISES. This appears to be an accurate characterization of the divided leadership in the middle 1960's. Irving Harris' characterization of the period after 1957 as one in which nothing happened is clearly incorrect (STN PF 2002, 149), appearing to reflect instead the division that existed between the Howard Nelson HARRISES, and the Kilsons and the Cogswells. Irving Harris' recent interviews downplay the role of the Cogswells, although he is clearly aware of them and the positions they held. The evidence is that the Cogswells played a greater role than he gives them credit for.

The existence of this division after 1959 is consistent with the clear evidence that such a division existed during the first years of Irving Harris' efforts to reorganize the Schaghticoke, beginning in 1967 (see below).

Evidence for Political Influence or Authority: 1967 to the Present

Analysis of Political Processes: 1967 to 1974

The PF noted an on-reservation meeting held in 1969 by Necia Hopkins, a non-Schaghticoke whose claims to be Schaghticoke were the subject of STN council actions from approximately 1968 to 1972. The meeting was attended by members of the Cogswell family and non-Cogswell descendants of Truman and Julia (Kilson) Bradley, as well as other, non-Schaghticoke Indians and some non-Indians (Ritchie 10/12/1969). The PF concluded that there was “some involvement with Necia Hopkins, for a period, of some of the Cogswell/Kilsons, and others from the Truman Bradley-Julia Kilson line, referred to as the 'Bradley family'” (PF). Irving Harris “crashed” this meeting, asserting a hereditary right to being chief, and got himself elected chief, along with officers drawn from the Bradley family. Subsequently, Cogswells, by then enrolled with STN, wrote to the CIAC denying Hopkins was Schaghticoke. The Bradley families were not initially enrolled with the STN. The information about these Necia Hopkins meetings is consistent with the apparent division between the HARRISES and the Cogswells plus other Truman and Julia (Kilson) Bradley descendants evident in the early 1960's (see discussion above).

A challenge to Irving Harris' leadership arose in 1972 to 1973. James H. Hennessey, a son of Jessie Harris, wrote to the Department of Environmental Protection in 1973, stating,

This is to advise you of the presence of members of the Schaghticoke's who do not recognize elected Chief I. Harris, but do recognize Chief Charles E. Harris as their blood Chief (Red Feather) of the Schaghticoke Tribe. Hoping that you will keep this in mind, and to add further proof the enclosed Indian descendants do not wish to be connected in any way with Elected Chief I Harris (of Litchfield) Son of Howard Harris Charles youngest Brother (Hennessey to DEP 9/30/1973, 1)(CT submission 11/12/2002).

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A list in the record, which appears to have accompanied this letter, outlined a series of families, with 61 names, almost all from the Grace and Elsie Harris sublines. They are the two adult daughters of James H. Harris whose families had resided on the reservation (See the Rattlesnake Club discussion above.) None of the names were recognizably from the Jessie Harris subline itself, which was a very small branch of the James H. Harris family line. James Hennesey was included in the STN enrollments/list of members in 1972 to 1974 (e.g., Bradley to Schaghticoke Indians Birch, Charlotte Louise 2/19/1974, Bradley to Schaghticoke council 3/31/1973, Tribal Roll 11/18/1972 - 12/31/1973).

A news article the previous year about Edson Charles Harris noted that he had recently made contact with the Schaghticoke again. The article stated that some of the Hennesey's had gone to Kentucky to visit him and had "decided he was the real missing chief when he had total recall of family stories that had been passed down through the generations" (Rose 11/19/1972).

Chairman Irving Harris wrote to Edson Charles Harris in March 1973, in a letter giving some picture of the issues in the conflict. Irving Harris told him that he had

. . . been misinformed by certain relatives in this family, some who-are habitual trouble makers. - Our tribe is a bonafide chartered organization and all members are authentic and legitimate Schaghticoke Indians and can substantiate their claim (Harris to Harris 3/22/1973).

Harris went on to tell Edson Charles Harris that "we have checked the background of all of the Schaghticoke Indians," indicating there was a challenge here to the legitimacy of some of the membership. There is some implication that the challenge is to the Cogswells, but nothing specific is noted. The letter goes on to say, "We do have confrontations amongst a certain family, I know that you have been misinformed by some relatives" (Harris to Harris 3/22/1973).

An additional element of conflict in the same time period, noted in the PF, was the sharp conflict between Harris and Earl Kilson in the late 1960's and early 1970's, with Harris attacking the legitimacy of Earl Kilson's Schaghticoke ancestry (STN PF 2002, 152).

The 1969 meeting held by Necia Hopkins, and the Hennesey-led challenge, together with the new evidence concerning the events and conflicts between 1959 and 1967, indicate that Irving Harris in 1967 to 1972 did not pull together isolated, Schaghticoke families, but that there were on-going conflicts along family lines that are evident from at least 1949 and continuing up to and after 1967.

There is supporting evidence for these conclusions from the interviews with former chairman Irving Harris (see also discussion below). Harris' description of the process of reorganization that he initiated confirms that part of the difficulty was existing conflicts. He also indicates some social distance from some of those he tried to get involved, but does not say that he did not know them. The transcription of one of the interviews reads in part:

It was around, um 67, 68 when I tried to bring uh, it was like 1969 I tried to bring the Cogswells and the Bradley families together to try to get them together in a different times, to find out what was going on, and what had happened to try and get people to be friends with one another again. And a it was just like a few people that would show up at meetings and stuff like that, and then when I tried to get the legislation for the for the Indians to be recognized under the State of Connecticut in 1971, certain people started comm, you know coming out making themselves visible and stuff but I still didn't know who everybody was or anything like that (Harris 3/5/2003).

Steve: Um, hum, okay, alright. And um so, and you weren't particularly associating with the Cogswell or Bradley's before 1969 that was something that happened right after you became Chief?

Irving: Yeah, well I mean I knew of them, uh but I wasn't associated with them, no.

Harris' further description of his knowledge of the Cogswells suggests an acquaintanceship but not a close relationship. He stated, among other things:

I knew of them, I knew some of the Cogswells that lived on the reservation because different times I went up there that was old Truman Cogswell and Frank Cogswell they were old at that time. I knew of them but just to say hi, what do you say, hello or something but I didn't know them, know them pers, personally.

There's Frank and I think there was George. To me to, to the best of my knowledge, they're, you know, nice people okay but I had nothing to do nothing to do with them. I never heard, I never heard their names being involved in, in, in the Indian a the Indian thing whatsoever. I knew the name of them from living up there but I never knew of them involved in anything up there.

Irving: I knew they were they lived there and I knew that Truman and uh, Truman and uh, uh Theodore, there were the sons, they used to come around once in a while but I didn't know them, they are probably around my age anyways. I got to know Truman later on because a I was in Korea and a Truman was in Korea (Harris 3/5/2003).

His description of the political issues at the time of the reorganization stresses the perceived threat of losing the reservation, and he notes his efforts to get the Cogswells, Kilsons and others together.

Political Processes 1967 to 1996

State Comments

The State objects to the use of conflict as evidence for political processes for 1967 to the present claiming it is contrary to the regulations and precedents of previous acknowledgment decisions. The Towns offer a similar argument, stating that “irresolvable” conflicts mean there is no political process. This argument is not new but was dealt with fully in the PF.⁷⁸ The acknowledgment regulations clearly indicate that conflicts can be good evidence for political processes, where they involve valued group goals, policies, etc. (83.7(c)(1)(v)). It is further the case that not all of the conflicts noted have been “irresolvable” even if the current conflict might appear so. For example, the apparent split in the early 1960’s and incipient splits through the middle 1970’s, were resolved and succeeded by a unified council. Likewise the problems that led to the dual councils of the early 1980’s were also resolved and followed by a single council.

Evaluation of Evidence for Political Authority 1996 to the Present

The STN, in response to technical assistance advice, provided further information concerning community and political processes from 1996 to the present, in the form of minutes of STN meetings and a report by Angelito Palma analyzing them (Palma 8/8/2003a). That analysis primarily relies on the idea that an organization that conducts meetings, elections and programs has demonstrated substantial political processes. By itself, this is not substantial evidence for community or political processes.

The evidence for community and political processes for 1967 to 1996, based on the nature of membership and the political processes in the internal conflicts, provides evidence for 1996 to the present as well.

Criterion C Evaluation: the Weight of Evidence of Continuous State Recognition with a Reservation

For this FD, the historical periods in which there is insufficient direct evidence of political processes are substantially reduced from the PF. These periods are from 1820 to 1840 and from 1892 to 1936. Within the first period, evidence of community is strongly established. For the second period, there is sufficient evidence to establish community. The second era was (until 1932) one in which Federal Indian policies in general encouraged assimilation and did not support Indian tribal governments. In parallel, the Connecticut policy in this period, though it did not seek termination, did not support tribal governments.

For the FD, there is sufficient evidence to demonstrate that community existed among the Schaghticoke throughout their history, including the periods during which there continues to be little or no direct evidence to demonstrate political influence within the group. The community criterion is met for some limited historical periods by adding evidence provided by the continuous state recognition with a reservation to direct evidence of community.

⁷⁸See also the HEP FD for precedent and a review of this general argument.

Community and political influence are treated in the regulations as separate, though interrelated characteristics (59 FR 9288). The regulations specify that evidence of community, where there is more than minimal evidence, also provides evidence for political processes (83.7(c)(1)(iv)). This applies to the 1820 to 1840 time period, where evidence for community was strong. Acknowledgment decisions have treated more than minimal levels of evidence for community as “supporting evidence” for “direct evidence,” such as the existence of named leaders or broad membership interest in political issues within the group.

In making this FD, the Department has reevaluated the evidentiary weight that was given to continuous state recognition with a reservation from colonial times until the present in the STN PF and in the Historical Eastern Pequot (HEP) decisions.⁷⁹ The position in those decisions was that the state relationship was not a substitute for direct evidence of political processes in a given period of time and could only add evidence where there was some, though insufficient, direct evidence of political processes.

The STN PF elaborated on this interpretation by stating also that state recognition in the Schaghticoke case did not provide additional evidence for political influence during any of the period between 1884 and 1967 in part because there were no known State dealings with Schaghticoke leaders in that period. The PF made the general statement that “Because the State relationship in this instance lacks a substantial political component, it cannot add substantial evidence concerning political processes” (STN PF 2002, Summ. Crit., 31). The Department, however, did not apply a requirement to show the State dealt with leaders in the evaluation of criterion 83.7(c) in the STN PF. Instead, the STN PF applied the evidence from continuous active state recognition with a reservation in the manner of the HEP decisions, where the state relationship was added to direct evidence of political processes but could not substitute for such evidence.

For example, the STN PF stated in part that

In the absence of any specific, direct evidence of political processes and leadership, the state relationship is not by itself sufficient evidence for the Schaghticoke to meet criterion 83.7(c) between 1800 and 1875, 1885 and 1948, and 1960 to 1967. The state relationship in combination with the specific evidence in the record for the period from 1949 to 1959, does not add enough evidence to demonstrate that criterion 83.7(c) is met (STN PF 2002, Summ. Crit., 31).

⁷⁹The PF in characterizing the state relationship, quoted the HEP FD, which concluded that “the State relationship with the Eastern Pequot tribe, by which the State since colonial times has continuously recognized a distinct tribe with a separate land base provided by and maintained by the State, and which manifested itself in the distinct, non-citizen status of the tribe’s members until 1973, provides an additional form of evidence to be weighed” (STN PF 11).

The Department's reevaluated position is that the historically continuous existence of a community recognized throughout its history as a political community by the State and occupying a distinct territory set aside by the State (the reservation), provides sufficient evidence for continuity of political influence within the community, even though direct evidence of political influence is absent for two historical time periods. This conclusion applies only because it has been demonstrated that the Schaghticoke have existed continuously as a community (within the meaning of criterion 83.7(c)) and because of the specific nature of their continuous relationship with the State. Further, political influence was demonstrated by direct evidence for very substantial historical periods before and after the two historical periods. Finally, there is no evidence to indicate that the tribe ceased to exist as a political entity during these two periods.

The state relationship is documented to be a continuously active one throughout the history of the Schaghticoke, as demonstrated by state overseer actions, state statutes, and other actions of the executive, judicial and legislative branch of Connecticut's colonial and state governments. There are such state actions throughout the periods where there is little or no direct evidence of political influence within the group, 1820 to 1840 and 1892 to 1936. These state actions are detailed in the body of this finding and in Appendix IV. The state relationship in this form provides evidence for the "substantially continuous existence" required by the regulations (83.3(a)).

There has been a continuous, active relationship from colonial times to the present between the State and the Schaghticoke in which the State treated them as a distinct political community. The historical continuity of the group has been demonstrated. This state relationship provides sufficient evidence to conclude that political influence existed continuously within the Schaghticoke, including two specific historical periods during which there is almost no direct evidence of political influence, but during which community has been demonstrated. The Schaghticoke therefore meet criterion 83.7(c) throughout their history.

Summary Evaluation Criterion 83.7 (c)

1892 to 1936

The PF concluded that the evidence was not sufficient to demonstrate that the Schaghticoke meet criterion 83.7(c) from 1884 to 1900 and that there was "almost no specific evidence of Schaghticoke political activity from 1900 to 1949" (STN PF 2002, Summ. Crit., 26). The PF concluded further that "The state relationship does not provide additional evidence . . . because there is an absence of specific evidence of the exercise of political influence within the group within the meaning of the acknowledgment regulations (STN PF 2002, Summ. Crit., 26)."

This final determination concludes there is little direct evidence to demonstrate political influence within the Schaghticoke between 1892 and 1936. The years 1884 to 1892 and 1936 to 1949 are dealt with separately for this FD.

This final determination has rejected many of the specific arguments presented by the petitioner to demonstrate significant political influence within the Schaghticoke between 1892 and 1936. These include petitioner's position that the activities of the Rattlesnake Club, in which two otherwise prominent Schaghticoke participated, the maintenance of a community on the reservation, and the claimed maintenance of distinct traditions demonstrated that political processes had existed. Although the Rattlesnake club may have benefitted the Schaghticoke, it was not shown that it was a communal effort or strategy or whether it was the intent of the Schaghticoke involved in it to act on behalf of the group for the benefit of the tribe. There is limited evidence that the community maintained some of the reservation trails, and some, limited evidence, of speaking with outsiders about the Schaghticoke and events on the reservation.

There was no evidence to demonstrate the political influence did not exist within the Schaghticoke 1892 to 1934. There are several individuals who were well-known to non-Indians and are of some stature, but no contemporary evidence to demonstrate that they were identified as leaders by Schaghticoke or outsiders. Oral histories collected substantially later identify several individuals, especially James H. Harris (d. 1909) and George Cogswell (d. 1923), as leaders. Oral histories and a few documents identify Frank and William Cogswell as leaders in the early 1930's. The lack of evidence of overt political activity may have been influenced by demographic trends, which resulted in the relatively early deaths of many of the children of the petition signers of 1876 and 1884, limiting potential leaders in this time period. Many of the older individuals who had signed the petitions, and Truman Bradley, who presented the 1892 petition, had died by 1910.

The PF noted two reports, in 1934 and 1936, which denied that the Schaghticoke at that time, or "in recent years," had leaders. The first report is close to the point in time, and second report is at the point in time, when there is specific evidence of Schaghticoke leaders (see evaluation, below, of 1936 to 1967). A 1934 report for the U.S. Indian Service on federally unrecognized Northeastern Indian groups said that the Schaghticoke had not had a chief or headman in recent years. A statement in 1936 in the minutes of the Connecticut State Park and Forest Commission, was that there were no leaders "recognized by the tribe." The 1934 report also denied leaders existed in other Northeastern groups, for which there is good evidence that such leaders existed, hence is not a definitive source. The 1936 report did not specify that it referred to any time other than in 1936, or the years immediately before it.

A well defined community of on and off-reservation residents existed throughout this time period (see criterion 83.7(b)). Community, when it is demonstrated to exist at more than a minimal level, which has been done here, provides supporting evidence for direct evidence of political processes (83.7(b)(1)(iv)). For 1920 to 1940, direct evidence about community was limited, but, together with state recognition in the form that it exists here, demonstrates community existed at more than a "minimal" level. "Minimal" means the strength of the community rather than the amount of evidence to demonstrate it.

The PF concluded there was little evidence that William Cogswell (d. 1942) had been a leader, although he was occasionally identified as "chief" in some documents and referred to as "sachem"

in oral histories from the Cogswell family. A review of the evidence in the record does not change this conclusion with regard to the time period 1923 to the mid-1930's. The evidence does not demonstrate that William Cogswell had any substantial role as a leader of the Schaghticoke, except possibly in the context of the organization and efforts from approximately 1936 on led by Franklin Bearce. The significance of those efforts is evaluated below.

There is a reasonable amount of evidence that Frank Cogswell was identified as a leader during the latter part of his lifetime, from the early 1930's until his death in 1953, but not earlier. A number of oral history accounts identify him as a "chief." Most do not describe specific actions as chief, though they connect this position with his residence on the reservation.

Although there is insufficient direct evidence to demonstrate criterion 83.7(c) between 1892 and 1936, this final determination concludes that overall, based on the continuous state relationship with a state-provided reservation, that there is sufficient evidence of political continuity throughout the Schaghticoke history that the STN meets the requirements of 83.7(c). The evidentiary weight of the continuous state relationship is discussed at the end of this summary evaluation of evidence for criterion 83.7(c).

1936 to 1967

The PF concluded there was "almost no specific evidence of Schaghticoke political activity from 1900 to 1949" (STN PF 2002, Summ. Crit., 26). The PF analyzed in detail what was known about the council and organization instigated by Franklin Bearce, focusing on the council established in 1949. The PF concluded "There is some evidence that there may have been more political activity which involved Franklin Bearce and the Schaghticoke for some years earlier than 1949, possibly as early as 1939" (STN PF 2002, Summ. Crit., 28). It further concluded that "There is limited evidence that the organization was affected by the same family line divisions and conflicts which show up clearly after 1967."

For this FD, the evidence is significantly greater that the organization that Bearce helped initiate lasted for a substantially longer period of time, from 1936 to the mid-1960's, than was demonstrated for the PF. There is better evidence that the organization and office holders dealt with issues of significance to the group, and did not simply respond to the passage of the Indian Claims Act of 1947. There is continuity of concern with the issue of protecting the reservation throughout this period, beginning with a possible Court of Claims suit in 1936, letters to the State in 1939, a 1943 letter to the U.S. Indian Service, the 1949 claim before the Indian Claims Commission (ICC), and a renewed land claims lawsuit in 1963 after the rejection of the ICC claim. There is also continued evidence of internal conflicts and the involvement of individuals from the three major family lines throughout the entire time period, evidence that indicates that the conflicts involved the entire community.

New evidence includes contemporary documentary evidence of the existence of a council and officers in 1943, which was concerned with the reservation and the status of the Schaghticoke in

relation to the State and Federal governments. This and other documentary sources support and clarify the oral histories reviewed for the PF that referred to meetings and an organization before the 1949 council. These documentary sources demonstrate that there were identified leaders, holding office in some form of organization as early as 1936, well before the 1949 council. There is some evidence that the State responded to the 1949 council's requests concerning housing on the reservation, removing Julia Clinton's non-Indian ex-husband, and allowing William Russell, as requested, to move back. There is some additional, though still indirect, evidence that the State dealt directly with Franklin Bearce as representing the Schaghticoke. Statements by Bearce in documents from 1949 describe specific contacts with State officials concerning the claims filing and the need for housing on the reservation.

The State renewed its comment on Schaghticoke activities during the period when Franklin Bearce was active, stating that these activities would not have existed without Bearce, a non-Schaghticoke, they do not provide evidence of political influence within the Schaghticoke. The PF stated that

The fact that an outsider was instrumental in initiating and, in part officially heading, these activities does not necessarily mean that these activities provide no evidence to demonstrate political influence. Such activities would provide evidence of political influence to the extent that it could be shown that Bearce drew upon and worked with internal political figures, that the council he formed addressed issues of clear significance to the membership, and that substantial internal political processes occurred (STN PF 2002, Summ. Crit., 28).

This FD concludes that Bearce worked closely with internal political figures and that their activities addressed issues of significance to the membership.

For the PF, there was little evidence of political activity between 1959 and 1967, and the significance of the existing evidence could not be determined based on the existing record. The PF concluded that "There is some evidence that the intense conflicts from 1967 onward did not begin at that point but were the result of earlier social relationships and, possibly, earlier political conflicts" (STN PF 2002, Summ. Crit., 29).

For the FD there is additional evidence concerning political processes from 1959 to 1967. Analysis of existing evidence together with the new evidence indicates that political activity, and the interest in the issues of maintenance of the reservation as well as claims for lost lands, which was manifested as early as 1936 continued after the rejection of the ICC claim in 1959. The years between 1959 and 1969 were a period of political division, rather than there being a hiatus as had appeared for the PF. It is part of a pattern of political conflict that continued after 1967 until the present.

For the PF, there was not sufficient evidence to demonstrate that community had been demonstrated for the time period 1940 to 1967. For this final determination, community has been demonstrated for 1940 to 1967.

The PF concluded that “the state relationship in combination with the specific evidence in the record for the period from 1949 to 1959, does not add enough evidence to demonstrate that criterion 83.7(c) is met.” For this final determination for the period from 1936 to 1967, where there is more evidence in the record than for the PF, the state relationship in combination with the specific evidence in the record for this period, adds sufficient evidence that criterion 83.7(c) is met from 1936 to 1967.

1967 to 1996

This final determination affirms the conclusion that there is ample evidence for political processes for 1967 to 1996. No information was submitted which demonstrated that these conflicts, described in some detail under 83.7(c) of the PF, had not occurred or not mobilized most of the membership. For this final determination, there is additional evidence and analysis of the conflicts between 1967 and 1974 which mobilized substantial number of members and show contact between members. The third party argument that the STN had failed to resolve conflicts and that therefore a political body did not exist is not in accord with the acknowledgment precedents and the regulations, which specify that political conflicts are evidence for criterion 83.7(c). The new analysis of the years from 1959 to 1967 demonstrates that the “reorganization” begun in 1967 represented a reuniting after a period of division, and shows continuity of issues from the previous period into the beginning of the next one.

Therefore this final determination concludes that criterion 83.7(c) is met from 1967 to 1996.

1996 to Present

The same evidence for political processes for 1967 to 1996, based on the political processes in the internal conflicts, exists for 1996 to the present as well. The conflicts have continued up until the present, especially, but not entirely, between the enrolled and unenrolled portions of the Schaghticoke community. This final determination concludes that a single political body continues to exist, notwithstanding the absence from the current certified membership list of an important segment of those involved in STN political processes from the 1960’s to the present. The final determination acknowledges the entirety of this political body. (See *Membership of the Schaghticoke Community within which there is Political Influence: 1996 to the Present* under criterion 83.7(b) above).

Conclusion

The STN meets the requirements of criterion 83.7(c). This determination acknowledges that the Schaghticoke Tribal Nation, defined by the two lists and approximately 14 other immediate family members, make up the autonomous entity being acknowledged.

Criterion 83.7(d) requires

A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

Summary of the Proposed Finding

The PF concluded that the STN met the requirements of criterion 83.7(d) because it submitted a copy of its governing document: a constitution adopted in 1997 which included a description of its membership criteria.

Changes in the Petitioner's Governing Document and Membership Criteria

The STN response to the PF included a copy of two proposed amendments to the 1997 constitution that addressed the issue of membership criteria; however, the STN stated that there had not been enough members attending the July 27, 2003, meeting to pass the two proposed amendments. The STN council expressed its support of the amendments in Resolution #PA-03 dated August 5, 2003, and "hereby commits to continue its efforts to have the same adopted by the full Tribal Membership" (STN 8/5/2003- SN V063 D019,1). One of the petitioner's narratives stated that the resolution was passed on September 28, 2003, the day before the close of the comment period, but did not include a copy (Austin, 2/29/2003a, 13).

The Department sent the STN a letter on December 5, 2003, requesting clarification of the status of these two amendments. The STN responded on December 18, 2003, by submitting a copy of the September 28, 2003, "STN Special Tribal Meeting," minutes showing that the STN membership unanimously passed these two amendments. The attendance sheet for the meeting shows that approximately 133 members and 24 guests or spouses attended. About 20 names on the attendance sheet had the letter "c" after them, indicating they are children (STN Council Minutes and "Special Meeting Minutes" 9/28/2003). The STN also included a letter from Richard L. Velky concerning the submission, and a resolution from the STN council listing the documents it was submitting in response to the December 5, 2003, letter from the Department (Velky to Fleming 12/18/2003; STN Council Resolution FS-03, 12/18/2003). Therefore, there is now sufficient evidence in the record that the two amendments discussed below were added to the STN's constitution.

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The first amendment tightened the language seen in Article III, Sections 2(a) and (b) concerning the requirements for documenting descent from Gideon Mauwee or from anyone identified as "Schaghticoke," *i.e.*, living on the Schaghticoke Reservation on the 1910 Special Indian census,⁸⁰ and by adding a new section 2(b) that states the applicant must also:

Establish by sufficient evidence that they and their lineal ancestors have lived in tribal relations with the Schaghticoke Tribal Nation on a substantially continuous basis throughout history (Resolution #PA-3 8/5/D0019, 8/5/2003, 1).

This section of the amendment addresses some of the concerns expressed in the PF that almost a third of the 2001 membership, about 110 descendants of Joseph D. Kilson, met the criteria for descent from the historical tribe, but had only been members of the STN since about 1996 and had not demonstrated significant previous social or political relationships with the rest of the STN petitioner, a concern that affected the requirements for meeting criteria 83.7(b) and 83.7(c). See the summaries of these two criteria in the PF.

The STN also submitted a copy of the council's resolution in the summer of 2003 concerning the removal of Joseph D. Kilson descendants from the STN membership list that put into words the idea of maintaining tribal relations as a part of the membership criteria.

Whereas, the Schaghticoke Tribal Nation has long had a custom and practice of accepting as full members only those descendants whose family has maintained Tribal relations on a substantially continuous basis, as determined by a lapse of such relations extending no more than two generations in a direct family line for any given individual (Resolution #K-03, 7/2/2003, 1).

Neither this resolution nor the constitutional amendment defined "substantially continuous," "no more than two generations," or a "lapse of such relations." Genealogically speaking, a generation can be defined strictly as the number of years between the birth of the parent and the birth of the offspring (roughly from 16 years to 46 years). Typically, a generation averages about 20-25 years. It is not clear if a "lapse" would apply, for example, to the grandchildren of an individual who might have left tribal relations early in his/her lifetime.

After removing the Joseph D. Kilson descendants who generally had not maintained tribal relations since at least the early 1900's, the STN's membership list appears to include only those individuals who have maintained tribal relations on a substantially continuous basis.

The final clause of the July resolution left open the possibility that the STN intends to re-enroll these Joseph D. Kilson descendants, should the STN be acknowledged as a tribe. This clause reads:

⁸⁰The Indians living on the Schaghticoke were identified by the census enumerator as "Pequot" Indians. See STN PF 2002, 111-118 for an analysis of the reservation population in 1910.

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Be it Further Resolved, that consistent with the BAR regulations set forth at 25 C.F.R. 83.12(b), the STN may, but is not required to, readmit to full membership any of those individuals listed on Exhibit A if those individuals are able to comply with existing Tribal membership criteria (Resolution #K-03, 7/2/2003, 2).

The STN may be able to show that some other Schaghticoke descendants, not currently on the membership list, had maintained tribal relations. (See the discussion regarding the "Historical Schaghticoke Community.") However, it should also note that the regulations at 83.12(b) state:

Upon acknowledgment as an Indian tribe, the list of members submitted as part of the petitioners documented petition shall be the tribe's base roll for purposes of Federal funding and other administrative purposes. For Bureau purposes, any additions made to the roll, other than individuals who are descendants of those on the roll and who meet the tribe's membership criteria, shall be limited to those meeting the requirements of § 83.7(e) and maintaining significant social and political ties with the tribe (i.e., maintaining the same relationship with the tribe as those on the list submitted with the group's documented petition).

A re-enrollment contemplated under Resolution #K-03 of the Joseph D. Kilson descendants who, as found in the PF had not maintained tribal relations, and who were removed from the STN 2003 membership list, does not fall within the purview of 25 CFR 83.12(b).

The second amendment added another section to Article III, on September 28, 2003, identified 42 individuals "who were part of the Schaghticoke Tribal Community in their own lifetimes, but who are not now members or have not applied for enrollment" (Resolution #PA-3 8/5/D0019, SN-V063 D019, 2). The amendment created an opportunity for these adults over 16 years of age whom the STN considered to be part of the "Unenrolled Schaghticoke Community," who had not applied for membership before the STN submitted its certified membership list for the FD, to apply for membership at any time within four years [minors under 16 to have 6 years once they reach age 16] of the effective date of "Federal Recognition," even though there may be a "general closure of Tribal Rolls" (Resolution #PA-3 8/5/D0019, SN-V063 D019, 2).

The STN's December 18, 2003, submission included evidence that Section 5 "Members of the Historical Schaghticoke Community," of Article III of the constitution passed by unanimous vote at the September 28, 2003, special meeting (STN Special Meeting Minutes, 9/28/2003).

Conclusion

The STN has provided a copy of its 1997 constitution which describes its membership criteria and two amendments passed on September 28, 2003, that address (1) issues of descent and maintaining tribal relations as part of the group's membership criteria, and (2) the status of unenrolled members of the "Historical Schaghticoke Community." The conclusion in the PF stands: the petitioner meets criterion 83.7(d).

Criterion 83.7(e)(1) requires that

The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

And 83.7(e)(2) requires that

The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. This list must include each member's full name (including maiden name), date of birth, and current residential address. The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list.

Summary of the Proposed Finding

The PF found that the STN met criterion 83.7(e). It had a certified membership list dated August 30, 2001, which included the full names, birthdates, and residential addresses of 317 listed members of the group and submitted sufficient evidence to demonstrate that 100 percent of its membership descended from the historical Schaghticoke tribe. Everyone on the August 30, 2001, membership list descended from Indians who had been identified as Schaghticoke Indians by the State of Connecticut in the 19th century and everyone on that membership list descended from at least one person who signed the 1884 petition for a new overseer. Everyone on the membership list met the petitioner's own requirements for membership, which are either descent from Gideon Mauwee (1687-1760) or descent from someone "identified on the 1910 U.S. Federal Census as a Schaghticoke Indian" [*i.e.*, living on the Schaghticoke Reservation in 1910].

The 2003 Membership List

The petitioner submitted a revised membership list certified on September 28, 2003, which included the names, addresses, and birthdates of its members. This list included the names of 63 new members and still included the names of 101 Joseph D. Kilson descendants who were either identified as "deceased" or "removed." (See the previous discussion under Community 1967 to the Present.)

The STN submitted a council resolution dated August 5, 2003, which stated that it had reopened its membership roll to "conclude" processing the applications that had been pending since January 2000. According to the resolution, the group's genealogist had reviewed the applications and concluded that the applicants met the STN's membership criteria in the constitution and maintained "through customary practice the necessary continuous community involvement . . ."

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(STN Council Resolution #G-03). All members of the group's leadership and council voted to accept the names of the eight children born to previously enrolled STN members, and

Whereas, on August 5, 2003, the Schaghticoke Tribal Nation Council voted for the acceptance of 63 adults and children onto the STN Tribal Roll and:

Therefore, be it resolved that the Schaghticoke Tribal Nation Council does hereby restate and reconfirm that the true and attested total membership of the Schaghticoke Tribal Nation is 257 Tribal Members (STN Council Resolution #G-03, 8/5/2003).

On September 29, 2003, The STN notified the OFA that there had been a technical problem with the August submission and that there were in fact 271 members on the official membership list. To correct this problem, The STN included a copy of pages 12-15 of the membership list, showing the names that have been on the 2001 list but accidentally omitted on the 2003 list, as well as the new members. A council resolution dated September 28, 2003, signed by the entire governing body, stated:

Whereas, on September 28, 2003, the Schaghticoke Tribal Nation, voted to correct the membership number from 257 submitted on August 8, 2003 to 271 members. The 271 number does not reflect any additions since August 8, but rather a correction of that STN Membership Roll (STN Resolution #MR-03).
[emphasis in the original]

The OFA review of the membership lists sent in August and in September 2003 showed that there were 14 new names on the August 2003 list that had the same membership numbers (2317 - 2330) as the last 14 names on the August 30, 2001, membership list. Membership numbers 2317 to 2330 were assigned to individuals who did not appear on the 2001 membership list, but who had enrolled since the date of the PF.⁸¹ There was no evidence that 14 individuals on the 2001 list had resigned or died. The September 28, 2003, certified membership list again included the 14 members named on the August 2001 list with their original membership numbers reinstated.⁸²

The September 28, 2003, membership list had 63 new names (numbers 2331 to 2393) that did not appear on the 2001 membership list. The OFA concludes that the September 28, 2003, resolution and certified copy of the membership list corrected a technical error that had accidentally deleted

⁸¹The STN submitted copies of pedigree charts and family group sheets for all but 5 of the 63 new members on the August 2003 list.

⁸²There are two exceptions: a woman who is #2319 in the 2001 membership list, is now #2320 on the September 28, 2003, list and a woman who is #2320 on the 2001 list is now #2319 on the current (September 28, 2003) membership list. However, since both women appear on both lists, there is no real harm in the discrepancies.

14 names from the list and temporarily reassigned their corresponding membership numbers to new members.

The actual membership list submitted with the 2003 response to the PF had 393 names on it and included the names of individuals who had been removed, who had resigned or died, and two individuals also enrolled with SIT. The STN's September 29, 2003, report stated that two women claimed that they had not consented to have their names on the SIT list and that they were members of the STN. Indeed, their names are on the STN's 2003 membership list (and previous ones). The STN did not include these two women on the list of 42 unenrolled tribal community members because it considered them to be already enrolled members. (See the discussion under criterion 83.7(b) above). The OFA accepts that these two women are enrolled with the STN and should be included in the total number of members.

When the OFA eliminated the names of resigners and removals from the total number of individuals on the list, it found that there were 273 names remaining on the membership list: the 271 identified in the September 28, 2003, letter of certification, plus the 2 who are also on the SIT list. The OFA accepts that there had been a technical error with the August submission. The OFA concludes that there are 273 individuals on the certified membership list.

However, other documents from September 2003 raise some questions about the accuracy or completeness of the membership totals. The STN petitioner also submitted a document signed by the officers and council members and dated September 28, 2003, titled: "Re: Addition to the Schaghticoke Membership Roll" (Resolution 9/28/2003a), which stated that the council had accepted "... the following number of members be added onto the Schaghticoke tribal roll effective today, September 28, 2003: 15." This document was not numbered in the same manner as the other resolutions, but stated that fifteen names were added to the membership list and that the total number of members is now **286**. The certified membership list contained 273 names and is also dated September 28, 2003; therefore, it appears that the council action to add 15 names was taken after certifying the membership list.

The September 28, 2003, council action did not list the names of the 15 individuals, nor was an addendum or attachment included that identified the 15 individuals, list their birthdates, addresses, or other information required by the group's own procedures. The STN response to the PF, however, included letters from 15 individuals, dated September 22, 23, or 25, 2003, from 10 individuals listed on the SIT membership list and 5 other Schaghticoke descendants not enrolled in either the SIT or the STN.

Nine letters appear to be from members of Marjorie (Russell) Overend's family who descend from Elsie V. (Harris) Russell through her son William H. S. Russell. Marjorie Russell is the sister of Alan Russell, former chairman of the STN and currently the chairman of the SIT group. Each of these nine individuals signed a form letter addressed to "Chief Richard L. Velky of the Schaghticoke Tribal Nation," dated September 27, 2003, that stated:

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I, _____, upon acceptance into the Schaghticoke Tribal nation, do hereby submit my resignation from the Schaghticoke Indian Tribe Tribal rolls.

I am requesting tribal membership into the Schaghticoke Tribal Nation, effective immediately. The necessary documentation will be forthcoming (Anderson to Velky 9/27/2003, SN V072 D0017).

However, a letter dated September 29, 2003, also addressed to Richard L. Velky and signed by all nine members of "The Family of Marjorie Overend," stated that they were members of the "Schaghticoke Tribe" [*sic*, Schaghticoke Indian Tribe, SIT], that they had been "under mis-guided information" when they had signed the earlier letter, and that "our signatures concerning membership to the Schaghticoke Tribal Nation should be nulled and voided" (Overend, *et al.* to Velky 9/29/2003).

One letter of resignation from the SIT group was dated September 25, 2003, and signed by a man from Belen, New Mexico (Johnson to Velky 9/25/2003). The other five form letters have different wording. These five were all dated September 22 or 23, 2003, and state that the individual is applying for membership in STN, that the "necessary genealogical data" is already on file with the STN, and that he/she is not "associated with any other state or federally recognized native American Tribe" (Cole to Velky, 9/23/2003).

All 15 of these individuals who sent letters in September 2003 to STN regarding their membership status are listed among the 42 individuals that the STN identified as part of the "Historical Schaghticoke Community" addressed the second proposed amendment to the STN constitution (STN Resolution 8/5/2003a), which was accepted at the September 28, 2003, meeting.

The OFA sent a letter to the STN on December 5, 2003, requesting documentation that would identify the names of the 15 new names added to the STN membership list as referenced in the September 28, 2003 memorandum. STN responded to this request on December 18, 2003, by sending a certified copy of the list of new members who were enrolled on September 28, 2003. The names on the list match the names of the 5 individuals discussed above.

The minutes showed that the STN held a "Special Council Meeting" at 12:25 p.m. on September 28, 2003, after the "Special Tribal Meeting" was concluded. The STN's minutes show that it moved to accept 11 individuals from the list of "Members of the Historical Schaghticoke Community," who were "seeking STN Tribal membership." The council then called a recess until 1:06 p.m. and resumed the meeting by stating that "STN Tribal office has just received several faxes (see attached faxes) from . . . [four living individuals names] . . . indicating that upon approval into the STN they are resigning from SIT (Alan Russell group)" (STN Council Minutes 9/28/2003, 1-2). The council then voted to approve those four names and add them to the STN membership list. These two actions added 15 names to the membership list and increased the total number of STN members to 286 (STN Council Minutes 9/28/2003, 2). This is the same total number of members that the STN's final reports in response to the PF used.

The list of 15 names submitted on December 18, 2003, is in the same format as the rest of the membership list, and includes the individual's membership number (numbers 2394 - 2408), name, family line (Harris or Kilson [including one name that is actually from the Bradley-Kilson family], none of these 15 individuals were Cogswells), address, and birthdate. The sub-heading for this submission reads "Below is a list of historical Schaghticoke Tribal members who have begun submitting documentation into STN. These members have been accepted by the Council and their paperwork is forthcoming" (STN 12/18/2003).

The STN's December 18, 2003, submission also included copies of the membership files for each of these individuals. Each of the file includes a September 29, 2003, letter from the STN secretary stating that the individual, identified by name, birthdate, and enrollment number, is legally enrolled in the STN. Each file includes a printout from the STN's genealogy program of the new member's individual history chart [family group sheet] and ancestry chart [pedigree chart] and letters from the STN genealogist stating that the applicant/member needs to provide evidence of his/her link to the 1910 census of the reservation with copies of birth and death certificates showing parentage. The STN also included copies of birth and death certificates and marriage records for deceased ancestors in the new member's 19th and early 20th century ancestral line where available. None of the membership files included the new member's own birth certificate, or those of other living ancestors such as parents or grandparents, that would complete the documentary link to the 1910 census. However, based on the evidence in the record and the analysis in the PF, 14 of these 15 individuals descend from someone on the 1910 reservation census.

One of the new members appears to be a descendant of Gideon Mauwee through Truman Bradley and Julia Kilson. His file includes copies of Truman Bradley's April 1, 1900, death record from Stratford, Connecticut and marriage record (date not visible on this copy, but before October 19, 1846),⁸³ as well as the death record of Frances Smith which named her as the daughter of Truman and Julia (Kilson) Bradley. These records do not appear to have been included in any previous submission to the OFA.

The STN included a random sampling of the membership files for the 63 new members on the certified membership list dated September 28, 2003. These files included copies of birth, marriage, and death records, as well as ancestry and individual history charts that link the individual to the Schaghticoke ancestor. It appears that the STN is following its own membership criteria requiring that the applicant document descent from an Indian on the Schaghticoke Reservation in 1910, or from Gideon Mauwee.

⁸³The source for this document is not included, but the last lines on the page read "William W. [illegible] /Pastor of the Congregat [illegible] /in Kent__." It clearly is a photocopy of an original record, the marriage at the top of the page has a date of 1778 and the certification at the end of the page reads: "A true copy of an Instrument received October 19th, 1846 and recorded by, Rufus Fuller, Jr Register [sic]." The "Truman Bradley to Julia Kilson" marriage is the third from the last on the page, but the date is not legible.

The evidence submitted by the STN on December 18, 2003, clarifies the differences between the September 28, 2003, certified membership list and the discussion in the text of the STN report on the SIT membership list, the "Historical Schaghticoke Community" members, and their relationship to the current STN membership. The STN has submitted evidence that it accepted 15 names or individuals who were either members of the SIT or not otherwise previously enrolled in STN.

The STN's December 18, 2003, response also clarified that nine names on the list were members of the "Marjorie (Russell) Overend family" [Elsie V. Harris Russell], five were members of the "Kayser (Harris) family," [Grace (Harris) Storm Williams family], and one was from the "Johnson (Kilson) family" [Bradley-Kilson family]. However, the September 29, 2003, letter signed by nine members of the Marjorie Overend family clearly states that they do not want their names on the STN membership list.

Since the membership list with 273 names on it was certified by the STN on September 28, 2003, and since there is considerable question regarding the actual status of at least 9 of the 15 names added to that list on the same date, the rest of the analysis for criterion 83.7(e) is based on the 273 membership total. The actual status of the 15 individuals does not affect whether STN meets criterion 83.7(e). They all descend from the historical tribe. See the discussion concerning criterion 83.7(c) in this FD for additional details concerning the internal political conflicts that affect the membership.

Genealogical Analysis of the 2003 STN Membership List

Analysis of the 63 Names Added to the Membership List on August 5, 2003

There are a total of 63 new names on the 2003 membership list. Most of the new members appear to be closely related to other individuals who were on the August 30, 2001, membership list (STN Council Resolution #G-03, 8/5/2003). Twenty new members had a parent on the previous list, one had a son, and five had a sibling (including half-brothers or sisters) on the 2001 membership list. Eight new members had a grandparent, nine had an aunt or uncle (including a parent's half-brother/sister relationships), and one had a nephew on the previous list. In addition, eleven new members had a grand uncle or half-grand uncle on the 2001 membership list and eight had cousins of various degrees (2nd cousins, half-2nd cousin, and 2nd cousin once-removed, etc.) on the 2001 membership list. Over half of the new members are somewhat closely related to Richard L. Velky: 4 are his grandnieces or nephews and 26 are his first or second cousins, including those of various degrees removed, i.e., the children or grandchildren of his first or second cousins.

Six of the new members were born between August 23, 2001, and June 11, 2003, the dates of the previous membership list and the current one. Four of these newborns had a mother who was on the previous membership list. One infant new member had a great-grand uncle who was on the previous list, but her mother and grandmother now also appear on the 2003 membership list. The

remaining newborn had a half-grand uncle on the 2001 list, but now she and her father are both enrolled on the 2003 list.

Eighteen of the new members were under the age of 18 at the time the 2001 roll was compiled, which according to the group's membership procedures, would have required that an adult submit the applications and documentation. (See discussion of the petitioner's enrollment procedures in the PF, 201.) The remaining 39 new members were all adults over the age of 18 when the 2001 membership list was compiled. Eight adults and one child had incomplete membership applications when the 2001 membership list was compiled and at least two other of the new members had incomplete applications at the time the 1997 membership list was compiled.

Descent of the 63 New Members

Sixty of the 63 new individuals on the 2003 STN membership list had an ancestor living on the Schaghticoke Reservation at the time of the 1910 census, which is one of the petitioner's criteria for determining membership. Two of the new members descend from James H. Harris who died in 1909, but whose non-Indian widow and young children lived on the reservation in 1910. These two members' direct ancestress, Jessie (Harris) Hennessey did not live on the reservation in 1910. One of the new members is a descendant of Joseph D. Kilson who died in 1871 and who did not have descendants living on the reservation in 1910. (See the discussion in the PF concerning the descent of the Kilson family). The new members' descent from each of the major family lines, Harris, Kilson, and Cogswell are discussed below.

Harris

The 2003 STN membership includes 39 new members who are the descendants of James H. Harris through four of his children:⁸⁴ Grace (Harris) Storm Williams, Elsie V. (Harris) Russell, Howard Nelson Harris, and Jessie H. (Harris) Hennessey.

Twenty-six of the new members descend from Grace (Harris) Storm Williams who lived in Household #2 on the 1910 census of the Reservation. Grace (Harris) Storm Williams had 81 descendants in the STN's 2001 membership. Six of the 26 new Grace (Harris) Storm Williams descendants had a parent on the 2001 membership list. Four had a sibling, 1 had a grandparent, 3 had an aunt or uncle, 10 had a grand- or great-granduncle, 1 had a son, and 1 had a nephew on the 2001 membership list. Sixteen of these new members are all the descendants of Hazel (Williams) Bishop Kayser (1913-1990), the daughter of Grace (Harris) Storm Williams. The other 10 new members in the Grace Harris family descend from her daughter Ella or Ollie (Storm) Kodamac Van Valkenburgh (1900-1939) through 4 of her daughters and 2 of her sons. Each of

⁸⁴The petitioner's genealogical database shows that James H. Harris had two wives: Sarah Snyder and Sarah Williams, but raised questions that Sarah Williams listed as the mother of Elsie V. Harris may be the same person as Sarah Snyder, aka, Collins. The BIA's research at the time of the PF strongly suggested that Sarah F. Snyder/Collins and Sarah Williams were one in the same. If Sarah Snyder/Williams/Collins was all the same woman, then the James H. Harris children were full siblings, not half brothers and sisters.

the Van Valkenburghs had a mother or sibling on the petitioner's 2001 membership list. Grace (Harris) Storm Williams has a total of 107 descendants in the STN's membership.

Howard Nelson Harris was living with his widowed mother Sarah F. (Williams/Snyder) Harris in household #3 on the Schaghticoke Reservation in 1910, and had 67 descendants on the 2001 membership list, including the current leader of STN, Richard L. Velky. Howard Nelson Harris has 5 new descendants on the 2003 STN membership list for a total of 72 descendants in STN.

There are six new members on the 2003 list descend from Elsie V. (Harris) Russell and her son William Herbert Sheldon Russell (1897-1955) who were both living in household #6 on the Reservation in 1910. None of the Elsie V. Harris descendants were on the STN's 2001 membership list; however, William Russell's children Marjorie (Russell) Overend, Alan William Russell, and Gail (Russell) Harrison were actively involved with the STN until about 1996. These three Russell children and some of their descendants were listed on the SIT membership list dated October 2, 2002. (See Appendix I of the STN PF for an analysis of the SIT membership.) Five of the six new members on the STN 2003 list are the children or grandchildren of Leonard Irving Russell (1925-1992), one of William Russell's sons by his first wife Clara Holland. Leonard was a full brother to Marjorie (Russell) Overend and a half-brother to Alan Russell and Gail Harrison. Leonard Russell was on the October 15, 1975, "Schaghticoke Tribal Roll" (STN Tribal Roll 10/15/1975: SN-V009-D0016). The sixth new member listed on the 2003 STN membership list from this subline is a minor child; however, neither of his parents nor his grandmother are on the current STN membership list.

The December 18, 2003, submission also included a copy of the membership file of this minor child who was enrolled in STN in August 2003. The file included a July 25, 2003, certified statement from the mother of the child stating that she has sole legal custody and that she is submitting his immediate resignation from the SIT (Rothe to SIT 7/25/2003). On the same day she sent a similar note to the STN requesting membership in the STN on behalf of her son.

Jessie H. (Harris) Hennessey has two grandchildren (a brother and sister) listed on the STN 2003 membership. Neither of these individuals had a direct ancestor on the 2001 STN membership list.

Jessie (Harris) Hennessey was not living on the Schaghticoke Reservation in 1910, but appears to have been married and living elsewhere;⁸⁵ however, her widowed mother, Sarah F. Harris, and younger siblings were on the reservation in household # 3.⁸⁶ Jessie was living with her parents on the Schaghticoke Reservation in 1900. Although she was not living on the reservation in 1910, her descendants meet the petitioner's own criteria for membership in that they also descend from Abigail Mauwee, reportedly a granddaughter of Eunice Mauwee and thus a descendant of Gideon

⁸⁵The petitioner's genealogical notes for her son state that he was born in New York, New York in 1900. Jessie F. Hennessey and her son were living in New Milford in 1920 (STN-FTM notes on James Hennessey).

⁸⁶Sarah F. Harris was not a Schaghticoke Indian, but by all accounts a white woman from New York.

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Mauwee. (See the PF for discussion of the Hennessey family connections to the current petitioner.)

The evidence shows 185 members on the current STN membership list descend from James H. Harris through four of his twelve children.

Cogswell

Two of the 63 new names, a mother and her adult son, are descendants of George H. Cogswell who was in household # 5 on the 1910 census of the Schaghticoke Reservation. This woman's aunt, uncle and several cousins were on the STN's 2001 membership list. This branch of the Cogswell family line did not resign from the STN membership when other Cogswell descendants (who are second cousins, etc.) resigned in 2000 and 2001.

The evidence shows there are 44 individuals on the STN's 2003 membership list who descend from George H. Cogswell.

Kilson

About one third of the new individuals on the 2003 STN membership list (21 of 63) are the descendants of Mary Ett Kilson who was in household # 4 on the Schaghticoke Reservation in 1910: nine through her son Earl S. Kilson, Sr. (1898-1971), five through her daughter Julia (Riley) Woodard Clinton (1913-1974), and seven through her daughter Catherine Garriety (Riley) Johnson (1917-1997). Nine of these new members had a parent on the 2001 STN membership list: six had a grandparent, one had two sisters, and five had an aunt or uncle on the 2001 STN membership list. Russell Kilson, who was a former councilman in STN, but a member of SIT at the time of his death in 2003, was either the uncle, granduncle, or half-first cousin [of various degrees of generations removed] to all 21 of these new members.

The evidence shows that there are 36 descendants of Mary Ett Kilson on the current STN membership list.

Joseph D. Kilson

One new infant on the 2003 list is a descendant of Joseph D. Kilson (1829-1871) through his daughter, Ida Elizabeth (Kilson) Thomas Kelsey (1866-1939). Ida did not reside on the reservation in 1910, nor did any of her children. There were 110 descendants of Joseph D. Kilson on the 2001 STN membership: 90 through Ida and 20 through her sister Sarah Ella Kilson Schmidl.⁸⁷ The new member from the Ida Kilson family line had a mother, grandfather, and several aunts, uncles, and first cousins on the 1997 and 2001 STN membership lists. See the discussion on pages 116-117 in the PF on the Joseph D. Kilson family and the following section on names removed from the 2003 membership list. There are eight descendants of Joseph D. Kilson on the STN's current membership list.

⁸⁷There is a typographical error on page 116 of the PF. Joseph D. Kilson's eldest daughter, Sarah Ella (Kilson) Schmidl, had 20 descendants on the petitioner's 2001 membership list.

Deceased Members

Eight individuals listed on the STN 2001 membership list are now listed as deceased, and although their names remain on the membership list, "Deceased" and the date of death is clearly listed by the name on the list. Two of the deceased were descendants of George H. Cogswell, two were descendants of Grace (Harris) Storm Williams, and four were descendants of Joseph D. Kilson.

Resignations

Aside from the status of the nine members of the Overend family discussed above, there do not appear to have been any new resignations since the date of the PF. The ten individuals on the 2003 membership list with "resigned" and a date [between 2000 and 2001] after their names were also listed on the 2001 list as "resigned." The "Tribal Roll #" fact field in the STN's genealogical database has a note after the roll number states: "Retired Roll #; resigned on [date]." Therefore, the STN appears to be keeping track of these individuals and not completely removing them from their records. Nine of those who resigned appear in the STN's list of individuals it considers to be a part of the "Unenrolled Schaghticoke Community;" four are Cogswell descendants and five are Kilson-Bradley descendants. However, four other Kilson-Bradley descendants who resigned from the STN are not on the STN's "Unenrolled Schaghticoke Community."

Names Removed from the 2001 List

The PF noted that there was little evidence that the 110 descendants of Joseph D. Kilson and Nancy (Kelly) Kilson, who were on the 2001 list and who enrolled in the STN group for the first time in 1996, had associated with the rest of the Schaghticoke families and been part of the community before that time. (See STN PF 2002, Description and Analysis of the Evidence, 183-184). The STN was advised in a technical assistance letter after the PF that it needed to either (1) show that the Joseph D. Kilson descendants added after 1996 were previously a part of a Schaghticoke community that continued to exist, (2) provide a full explanation for the recent inclusion of this significant number of people, or (3) remove the names of persons on the 2001 membership list who had not previously been a part of the Schaghticoke group (Smith to Velky 3/14/03).

The STN response to the PF included the July 2, 2003, STN council meeting minutes, which showed that the STN removed from its membership list 97 of the 110 individuals who were the descendants of Joseph D. Kilson and who, in their view, had not maintained tribal relations with the rest of the group (Schaghticoke Council 7/2/2003). At the July 2, 2003, meeting, after some discussion of "guaranteeing and giving special rights to the Joseph D. Kilson line" the council passed a resolution to remove the Joseph Kilson descendants who could not show they had maintained "tribal relations on a substantially continuous basis" (Resolution #K-03). The minutes of the July 2003 meeting stated that a "List of 102 Joseph D. Kilson family member names are read for removal/retirement from the Schaghticoke Tribal Nation Membership Rolls. (See

attached sheet).” However, there was no attached separate sheet and there were only 97 names on the list that was included in the minutes themselves (STN Resolution #K-03; Schaghticoke Council 7/2/2003). The difference between 102 (the number mentioned in the resolution) and 97 names (the actual number of names listed in the minutes) is accounted for by including the 4 deceased members from this family line and the 1 Thomas family member whose status is questioned. (See the discussion above of Joseph D. Kilson descendants under 83.7(b), Community 1967 to the Present.)

Although the names still appear on the printout of the membership list, “Rem. [“removed”] 7-2-03,” is written by each name.⁸⁸ Four other Joseph D. Kilson descendants on the 2001 list are identified as “deceased” [death date included] on the 2003 list. Therefore, as of July 2003, a total of 102 Joseph D. Kilson descendants are no longer included in the petitioner’s membership.

The STN council action did not remove all of the descendants of Joseph D. Kilson: eight remain on the 2003 membership list. All eight names are from one family (a man born in 1928 and his children and grandchildren) who descend from Ida (Kilson) Thomas.⁸⁹ One of the man’s adult grandsons (born in 1980, member #2135) was not included in the 97 names that were removed from the 2003 membership list, but “Rem. 7-2-03” appears after his name on the certified membership list. At this time the OFA cannot determine whether this individual is on or off the STN membership list. Seven of these Thomas family members were on the 2001 list, and one child born in 2001, who was the daughter of a woman on the 2001 list, was added. Thus, all 110 Joseph D. Kilson descendants discussed in the PF are accounted for: 97 names were removed from the list, 4 individuals died, 8 are on the STN’s 2003 membership list, and 1 individual’s (#2135) status is in question.

Dual Membership

Two women who descend from the Kilson-Bradley marriage, who are listed on the STN’s September 28, 2003, certified membership list, are enrolled in both the SIT and the STN. The STN’s analysis of the SIT membership list stated: “There are two elderly STN members who are currently enrolled with SIT . . . It is unknown at this time how these two women came to be members of the SIT. . . STN does know that they have never resigned from the STN” (Austin 9/29/2003, 9). Despite this statement and although they have membership numbers and there is no notice on the membership list or on the notes on the STN genealogical program concerning

⁸⁸There is one exception, one woman (member #2112) whose name is on the list in the July 2, 2003, minutes, does not have “Rem. 7-2-03” after her name, but all other fields of information on the membership list following her name are blank. This appears to be a technical problem with the membership list rather than a membership status issue, and OFA considers that her name was removed from the STN membership list.

⁸⁹Howard’s grandmother, Ida Elizabeth Kilson was a daughter of Joseph D. and Nancy (Kelly) Kilson and was living with them in the town of Kent at the time of the 1870 census. The widowed Nancy (Kelly) Kilson and the younger children in the family were living on the Schaghticoke Reservation when the 1880 census was taken. That census listed Nancy as white, but other evidence indicates that she was Schaghticoke.

their dual membership, the petitioner does not appear to include them in the total count of 273 members as certified by the council. However, these two women have been on STN membership lists since at least 1982 and their current dual enrollment status is not a significant issue for acknowledgment purposes.⁹⁰ The acknowledgment regulations do not prohibit dual enrollment and OFA has included them in its analysis of the STN membership. (See the following chart showing the petitioner's descent from the Schaghticoke households in 1910.)

Descent of the 2003 STN Membership from the 1910 Schaghticoke Reservation Population

Table II in the PF showed the number of individuals in the STN's membership by descent from the Indians on the Schaghticoke Reservation in 1910. All of these Indians were identified as "Pequot." The following table shows the number of individuals on the certified 2003 STN membership list by their descent from an ancestor on the 1910 census. It includes the statistics from the PF in order to compare the descent of the STN petitioner's 2003 membership with the descent of the membership in 2001. It includes adult children living in separate households on the reservation, others who were living off-reservation in 1910, and those children or grandchildren who were born after 1910, but who had a parent or grandparent on the reservation. See Table II in the PF for a complete listing of the reservation residents in 1910.

⁹⁰Criterion 83.7(f) requires that "The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe." The SIT is not an acknowledged tribe and the STN does not appear to have any members enrolled in any acknowledged tribe.

Petitioner's Descent from Schaghticoke Households on the 1910 Census

This table lists the 1910 reservation residents who have descendants in the STN petitioner's membership. It is arranged by the three major families: Harris, Cogswell, Kilson and their sublines: including children or grandchildren who were born after 1910 or not living on the reservation [names in *italics*]

STN Ancestors: Reservation Residents & sublines	# of Descendants on the STN 2001 Membership List	# of Descendants on the STN 2003 Membership List
Sarah F. Williams/Snyder Harris [widow of James H. Harris]	Total of all Harris families/sublines 148	Total of all Harris families/sublines 185
Grace (Harris) Storm, dau. of Sarah F. & James H. Harris	Total of the 3 daughters listed below 81	Total of the 3 daughters listed below 105
Ollie M. Harris, dau. of Grace	60	68
Mabel Harris, dau. of Grace	8	8
[<i>Hazel G. Williams, b. 1913: dau. of Grace</i>]	13	29 [or + 5 by 9/28/2003 council action]
Howard M. Harris, son of Sarah F. & James H. Harris	67	72
Elsie V. (Harris) Russell, dau. of Sarah F. & James H. Harris	0	6 [or + 9 by 9/28/2003 council action]
William Russell, son of Elsie V.	0	6
[<i>Jessie H. Hennessy: off reservation in 1910, dau. of James H. and Sarah F. Harris</i>]	0	2
George H. Cogswell	39	38
Mary E. (Kilson) Jessen	Total of the 3 grandchildren listed below 15	Total of the 3 grandchildren listed below 36
Earl S. Kilson, grandson of Mary E.	7	16
[<i>Julia Bertha Riley, b. 1913: granddaughter of Mary E. Kilson</i>]	5	11
[<i>Catherine G. Riley, b. 1917: granddaughter of Mary E. Kilson</i>]	2	9
Total	202	259
Others not on the reservation:		
<i>Bradley-Kilson (Kilson/non-Cogswells)</i>	[includes 2 dual/SIT*] 5	[+ 1 by 9/28/2003 council action] 5
<i>J. D. Kilson</i>	110	10
Total	317	273*

*The membership list certified on September 28, 2003, included the names of two women who were also on the SIT membership list, making them dually enrolled and not eligible for membership in the STN under its own membership requirements. The actual number of living members on the STN list is 273; however, these two names appear not to have been included in the certified total count of 271 members. The total number of STN members would be 286 if the 15 names that were added to the membership by the STN's September 28, 2003, resolution are included. All but one of the 15 new names descends from two reservation families: Nine from Elsie V. (Harris) Russell and five descend from Grace (Harris) Storm Williams and her daughter Hazel Williams, and one descends from the Bradley-Kilson line that was not on the reservation.

Analysis of the Petitioner's "Unenrolled Community Members:" SIT Members and Others Not Enrolled in STN

The STN included a report on its analysis of the 73 names on the SIT's 2001 membership list and the STN's evaluation of their current status: currently dually enrolled, resigned from STN, incomplete documentation, never applied to STN, un-documented claims, "resigned SIT and joined STN effective September 28, 2003," or some other brief remark (Austin 9/29/2003, Appendix A, 16-17). In a column headed "Schaghticoke Ancestor?" each SIT member's name was followed either by the remark, "yes," (sometimes with an explanation) or "unknown." STN's analysis identified 42 individuals it considered as unlikely to qualify for membership in the STN, either because their ancestors were "unknown" (descent was not documented or the evidence did not support the claim) or because they did not show that they family had maintained tribal relations (Austin 9/28/2003, 3-4).

The STN also identified 22 individuals in SIT who "might qualify for STN membership:" 9 individuals who had a Schaghticoke ancestor and had been members of STN, but had resigned from STN, 7 who did not complete the STN enrollment process, 1 whose application was completed after the STN roll was closed, and 5 who had never enrolled with the STN (Austin 9/28/2003, 7, 16-18).

The STN report also included a list of 26 names it identified as the "Remaining Unenrolled Tribal Community Members" (all of whom are on the petitioner's list of 42 "Unenrolled Community Members") broken down by family lines (Harris, Kilson, and Coggsell) into groups of "On SIT Membership List," or "Unaffiliated Community Members," (Austin 9/29/2003, Appendix B, 19). This table high-lighted the names of nine individuals who are former members of the STN who resigned from it [the same names were also included in the analysis discussed above]: five are Kilson family members who are now on the SIT membership list and four are Coggsell family members who are not affiliated with either STN or SIT at this time.

The 42 individuals whom the STN identified as part of the "Schaghticoke Tribal Community" were named in an addendum to the proposed amendment that was distributed to all members of the STN prior to voting on the constitutional amendment. All of the individuals were Kilson, Harris, or Coggsell family descendants. Ten of the 42 names on the list were members of the STN who

resigned from the petitioning group prior to the date of the PF, and 10 of the 42 names on the list were on the SIT's October 5, 2002, membership list. Eight other names on the list were on the petitioner's March 11, 1998, list of "People Requesting Schaghticoke Membership Which Require Verification." Other names on the list appear to be the children or grandchildren of adults on the list, as well as other Schaghticoke descendants who have not enrolled in the STN under its current enrollment process, or who have not joined the SIT group, i.e., Irving Harris and some of his family members. Based on the information in the petitioner's genealogical database and the other evidence in the petition, it appears that all of these individuals descend from someone who was living on the Schaghticoke Reservation in 1910.

The STN report included the petitioner's analysis of the SIT membership list, with the names of individuals who were "currently dually enrolled" (2 names) or "resigned SIT and joined STN effective September 28, 2003," (10 names), or "applied to STN, accepted for membership effective August 5, 2003," (1 name) listed in bold (Austin 9/29/2003, Appendix A, 16-17). The 10 names who were identified as having resigned from SIT were the same individuals who sent form letters dated September 27, 2003, to the STN stating that "upon acceptance into the Schaghticoke Tribal Nation", [I] do hereby submit my resignation from the Schaghticoke Indian Tribe" (Anderson to Velky, 9/27/2003), and were added to the petitioner's membership by the resolution dated September 28, 2003. The STN's December 18, 2003, submission included evidence that these 10 individuals who resigned from the SIT were among the 15 added to the STN membership list on September 28, 2003, 9 of whom subsequently indicated that did not want to be on the STN membership list.⁹¹

Conclusion

The STN submitted a membership list dated September 28, 2003, which was separately certified by its governing body, with the names, birthdates, and current residential addresses of 273 members. This new list is substantially different from the list reviewed for the PF: 102 names of individuals from the 2001 membership list who had not demonstrated that they had maintained tribal relations with the historical Schaghticoke since the early 1900's or earlier were removed from the 2001 list. The names of 63 individuals, who appear to be closely related to individuals on the 2001 list, were added to the membership list. The STN also identified 42 "unenrolled tribal community members" who are also shown to be a part of the "Historical Schaghticoke Community." This FD concludes that there is one Schaghticoke tribe, composed of the individuals and families identified on these two lists, and that approximately 14 other individuals, who are the children or siblings of unenrolled individuals may also be included in the membership. (See the discussion under criterion 83.7(b).) The STN has provided sufficient evidence to show that all 273 individuals on the

⁹¹On December 11 and 19, 2003, the court agreed that OFA could look at three and a half pages of evidence submitted to the court, which included a letter signed by nine members of the Overend family and an affidavit by Richard L. Velky regarding the status of 9 of these 10 individuals. See the discussion above concerning their status.

September 28, 2003, certified membership list and the 42 individuals listed on the September 28, 2003, amendment to the constitution who are “unenrolled tribal community members” descend from the historical tribe. Therefore, 100 percent of the STN membership descends from the historical Schaghticoke tribe.

The conclusion in the PF stands: The STN meets criterion 83.7(e).

Criterion 83.7(f) requires that

The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.

No members of the STN are known to be dually enrolled with any federally acknowledged American Indian tribe. Neither the petitioner nor any of the interested parties addressed this criteria. Therefore the conclusion in the PF stands: the STN meets criterion 83.7(f).

Criterion 83.7(g) requires that

Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

There has been no Federal termination legislation in regard to the STN. Neither the STN nor any interested parties addressed this criterion. Therefore the conclusion in the PF stands: the STN meets criterion 83.7(g).

Appendix I

Table 1
Mentioned Off-Reservation Residences of Schaghticoke, 1801-1850

1801-1810

- 1801 May, Benjamin Chickens petitions the Connecticut General Assembly for permission to sell his land in the Town of Kent [Litchfield County, Connecticut].
- 1801 October 3, land purchase in Town of Cornwall [Litchfield County, Connecticut] for the benefit of Eliza Warrups Chickens, alias Mowee
- 1802 February-March, deaths in Town of Roxbury [Litchfield County, Connecticut] of Stephen Tocket, Indian, his wife, and child.⁹²
- 1802 March - Gideon [Sherman?] fetched back to the reservation from Dover [Dutchess County], New York.
- 1803 May, Benjamin Chickens, "one of the Scatacook tribe of Indians," requested and received from the Connecticut General Assembly \$100 from an 1801 land sale comprising improvements he had made on his farm on the Schaghticoke Reservation.
- 1803 November, "Joe, to fetch home when sick" [overseer's report does not provide a surname or a location]
- 1803 ca, Eli Bunker born in the Town of Goshen [Litchfield County, Connecticut].
- 1804 May, paid Aron Dillano for keeping Peter Sherman one week when sick and bringing him to Scattecook [no location]
- 1805 January 25, death of Joseph Pene, Indian, Town of Roxbury [Litchfield County], Connecticut
- 1805 September, Gideon [Sherman?], paid for bringing from Dover [Dutchess County, New York]
- 1807, Nathan G. Cogswell born, Cornwall, [Litchfield County, Connecticut]
- 1808 September 14, Jabez Cogswell born, Cornwall, [Litchfield County, Connecticut]
- 1809 November 18, the Connecticut General Assembly grants permission for Benjamin Chickens to sell his land in the Town of Kent [Litchfield County, Connecticut], purchased with the \$100 compensation he received in 1803, for the purpose of moving to Greene, Chenango County, New York
- 1810 Federal Census, Town of Dover, Dutchess County, New York
Aaron Chappel household
- 1810 Federal Census, Town of Greene, Chenango County, New York
Benjamin Chickens household

1811-1820

- 1812 ca, Slosson's manuscript history of Kent [Litchfield County, Connecticut] stated that the present number of Indians was about forty (Slosson 1812a, 3).
- 1812 April 21, petition from Jeremiah Coxel [Cogswell], Rufus Bunker, and Peter Mawee, Indian Natives and children and heirs at law of Eliza Warrups Chickens alias Eliza Mawee, late of Cornwall in Litchfield County deceased, petition to sell her tract of land of about 30 acres, held in fee.

⁹²Available data provided no indication whether this family was connected either to the Stephen Syakes/Tyckas on the 1789 Schaghticoke list or to the later Henry Stephen Toncas who married Abigail Harris in 1864. This couple were better known as Henry Harris aka Henry Pann and Abigail Mauwee.

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- 1812 May, Margr., overseer paid J. Elliss for bringing from his house to Scatecook [no location]⁹³
1812 Sept, Pol, overseer paid for carting her from Jo Thomas to Scatecook [no location]
1812 Oct, Jerri Somuck [Tomuck], overseer paid Homer Sacket of Warren [Litchfield County, Connecticut], for keeping at his house when sick
1813 Feb., Abigail, paid Tim Mink for fetching her to Scatecook [no location]; paid Elijah Warner for keeping her
1813 July, Joseph Mawwee, carrying corpse from Mr. Spooner's to Scatecook with wagon [no location]
1814 Jan, paid for bringing Joseph Mawwee children from Warren (Litchfield County, Connecticut)
1814, Benjamin Chickens household back in the vicinity of the Town of Kent [Litchfield County, Connecticut]
1814, Jeremiah Tomuck, fetching from Judge Barlows [no location]
1815 October, overseer paid for the burial of a Schaghticoke child at New Milford [Litchfield County, Connecticut]
1816, Margery, sent to New Milford [Litchfield County, Connecticut] after her when sick
1817 January, Jerry Tomuck, paid for fetching him from Ewesworth/?/ in a wagon [location not identified; there is an Ellsworth Hill in the Town of Kent, Litchfield County, Connecticut, north of the reservation]
1817 August, Elihu [Mauwee], pd for bringing him from southeast 34 miles when sick
1817 Sept, Job, pd Joseph Baldwin for keeping his family when sick [no location]
1817 ca, Henry Harris born in New Milford, Connecticut, or Kent, Connecticut, or Warren, Connecticut [from later records; another said Albany, New York]
1818 Jan, Pol, pd for fetching in wagon from Dover [Dutchess County, New York] to Scatecook
1820 March, pd Moses Smith of Amenia [Dutchess County, New York] for keeping Indians when sick
1820 June, Joe Pene, pd funeral charges at Newtown [Fairfield County, Connecticut]
1820 Federal Census, Town of Dover, Dutchess County, New York
 Aaron Chappel household
1820 Federal Census, Town of Stratford, Fairfield County, Connecticut
 Jacob Mauwee household

1821-1830

- 1821 May, Gideon Sherman, pd last sickness & funeral charges at New Milford [Litchfield County, Connecticut]; pd bringing the corpse from New Milford to Scatecook
1821 September 15, Caroline Kilson born, Salisbury [Litchfield County, Connecticut]
1822 Sept, pd for fetching Eunice and her children from George Bulls to Scatecook [no location]
1823 Aug, Isaac Rodgers, pd A. Hubbell for his sickness, physick, and funeral [no location]
1825 Apr, Old Sue, pd for fetching from Bridgewater [Litchfield County, Connecticut, near Roxbury] to Scatecook
1825 ca, Ann M. Cogswell born Cornwall [Litchfield County, Connecticut]
1826 Dec, Elihu [Mauwee], pd John Baldwin of NewTown [Newtown, Fairfield County, Connecticut] for his sickness
1827 Jan, John, sick at house of Mary McDurff, carrying to Scatecook sick [no location]
1828 May, Polly, paid for bringing from Curtiss Hallocks to Scatecook [no location]
1828 Nov, Jerry Tomuck and family, fetching from Norwalk [Fairfield County, Connecticut], 48 miles, 3 days

⁹³In instances when the overseer provides the name of the non-Indian family with which the Schaghticoke individual was residing, it should be possible for a local historian or genealogist who is familiar with the development of Litchfield County to identify many of the locations of residence.

1828 Dec, Indian boy, pd for bringing from Bridgewater [Litchfield County, Connecticut, near Roxbury]
1829 February 29, Joseph D. Kilson born Salisbury [Litchfield County, Connecticut]
1830 Feb., John Mawwee moved when sick from Martin Preston's to Scatecook [no location]
1830 Federal Census, Town of Dover, Dutchess County, New York
 Aaron Chappel household
1830 Federal Census, Salisbury, Litchfield County, Connecticut
 Alexander Kelson [Kilson] household
1830 October, Sarah Chickings, pd for bringing from Pine Plains [Dutchess County, New York] to
 Scatecook

1831-1840

1831 Jan, James, fetching from NewTown [Newtown, Fairfield County, Connecticut] to Scatecook
1831 Feb, Wm Cocksure, going after him 6 miles
1831 May-Sept, deeds for the land owned by Aaron Chappel in the Town of Dover, Dutchess County, New
 York, and the Town of Kent, Litchfield County, Connecticut
 Aaron Chappel late of Dover, deceased
 widow, Hagar Chappel, of Dover
 Aaron Chappel, Jr., of the Town of Greene, Chenango County, New York⁹⁴
 Isaac Roggers and Deborah his wife of Sheffield, Berkshire County, Massachusetts⁹⁵
 Abraham Rice and Martha his wife of Kent in Litchfield County, Connecticut
 Miriam Kelley of Kent, Litchfield County, Connecticut
1832 Jan, Rachel, pd. Lewis Thayer for going after her to Woodbridge [New Haven County, Connecticut]
1832 Jan, Wm. Cocksure, pd. for fetching him from Wm Turrels 6 miles
1833 ca, Rosetta Cogswell born, Cornwall [Litchfield County, Connecticut]
1834 June, John Suckernuck, pd expenses to Oneida [New York]
1834 Nov, Taber Mawwee, fetching from Litchfield [Litchfield County, Connecticut] to Scatecook, 3 days
 with wagon and horse; coffin, grave clothes & digging grave for Taber
1835 Feb, going to NorthVill [Northville, Litchfield County, Connecticut] to see Martha Mawwee and
 move her from Mallorys to Bartram⁹⁶
1835-1837, James Wadsworth of Cornwall, Connecticut, appointed overseer for the funds resulting from
 the 1812 land sale in Cornwall [Litchfield County], Connecticut, on behalf of Jeremiah Coxel
 [Cogswell], Peter Mawee, Rufus Bunker.
1835 Oct, Angeline, funeral expenses paid to Selectmen, New Milford, [Litchfield County, Connecticut]
1836 Feb, John Mawwee sick at Warren [Litchfield County, Connecticut], brought to Scatecook
1838 Dec, Charles Mawwee, sickness and funeral at Sharon, [Litchfield County, Connecticut]
1840 Federal Census, Town of Greene, Chenango County, New York
 Aaron Chappel, Jr., household
1840 Federal Census, Salisbury, Litchfield County, Connecticut
 Luman Bunker household
1840 August 9, George H. Cogswell born, New Milford, [Litchfield County, Connecticut]

⁹⁴No evidence that he maintained tribal relations; he never appeared in Schaghticoke overseer's records; by 1840 he was still in the Town of Greene, Chenango County, New York. There is no available data as to whether his move to that location was associated with the move of Benjamin Chickens.

⁹⁵Adjacent to Litchfield County, Connecticut, on the north.

⁹⁶Probably the same person who was mentioned as Patty Mauwee in Northville in 1841; see below.

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1840 ca, Mary Jane Fowler born, New York⁹⁷
1840 ca, Sarah Van Rensselaer born, New York⁹⁸

1841-1850

1841 May, J. Mawwee sick, pd for bringing home [no location]
1841 June, Elihu Mawwee, sending to Weathersfield [probably Wethersfield, Hartford County, Connecticut] after him, brought him home sick and lame
1841 Aug, Patty Mawwee, going to NorthVile [*sic*, Northville, Litchfield County, Connecticut] to provide for when sick⁹⁹
1842 Jan, Roxa, pd J. R. Harrison for funeral expenses at Cornwall [Litchfield County, Connecticut]
1842 February 9, Eli Bunker m. Fannie Marie Watson, Cornwall, Litchfield County, Connecticut
1842 April 14, letter from James Wadsworth, overseer of Jeremiah Cogswell, Cornwall, [Litchfield County], Connecticut, to General Assembly
1843 January 20, Melissa Vandore m. Homer Harris, Sharon, [Litchfield County], Connecticut¹⁰⁰
1846 May 24, Delia J. Kilson married Reuben Rogers, New Milford, [Litchfield County], Connecticut
1847 ca, birth of Hellen Rogers, New Milford, [Litchfield County], Connecticut
1848 October, Patty Mawwee, paid A. Thayer of New Milford [Litchfield County, Connecticut] for keeping eight weeks sick
1848 October, Jacob Mawwee, paid expenses from Milford [New Haven County, Connecticut]
1848 Nov, J. Cogswall [Jeremiah Cogswell], paid funeral expenses, Cornwall [Litchfield County, Connecticut]
1848 Nov, Eunice, paid funeral expenses, Milford [New Haven County, Connecticut] [not Eunice Mauwee; perhaps Eunice Job?]
1848 Dec, Patty Mawwee, pd. A. Thayer, New Milford, [Litchfield County, Connecticut] for keeping ten weeks
1848 December 7, Mary Frances Cogswell born New Milford, [Litchfield County], Connecticut
1849 Jan, Elihu [Mauwee], sent team to fetch him home with broken leg, twice 3 miles
1849 January 21, Riley Cogswell m. Mary Ann Phillips, New Milford, [Litchfield County], Connecticut
1849 November 29, Emily Cogswell m. Abner L. Rogers, New Milford, [Litchfield County], Connecticut
1849 ca, Benjamin Rogers born New Milford, [Litchfield County], CT
1850 January 27, James Henry Harris born Stratford, Fairfield County, Connecticut
1850 April 24, petition of James Wadsworth of Cornwall, [Litchfield County], Connecticut, overseer, to sell the land of the late Jeremiah Cogswell for the benefit of his widow
1850 Federal Census, Goshen, Litchfield County, Connecticut
Eli Bunker
1850 Federal Census, Cornwall, Litchfield County, Connecticut

⁹⁷Minimal evidence that her mother was maintaining tribal relations; Sarah (Rice) Fowler appeared only once in Schaghticoke records (Overseer's Report 9/1865-12/1865).

⁹⁸No evidence that her mother was maintaining tribal relations; Sarah (Bunker) van Rensselaer never appeared in Schaghticoke records.

⁹⁹Probably the same person as the Martha Mauwee previously listed in Northville; Patty was a common late 18th and early 19th century nickname for Martha.

¹⁰⁰No evidence that she maintained tribal relations; she never appeared in Schaghticoke records.

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- Nathan G. Cogswell household¹⁰¹
- 1850 Federal Census, Kent, Litchfield County, Connecticut (off-reservation)
 - Abraham Rice household
 - Joseph Kilson
 - Flora Kelly
- 1850 Federal Census, New Milford, Litchfield County, Connecticut
 - Reuben Rogers/Delia J. Kilson household
 - Jabez Cogswell household
 - Riley Cogswell/Mary Ann Phillips household
 - Patty Mauwee
- 1850 Aug - Rachel, pd. David Dutcher for keeping & fetching to Scatecook [no location]

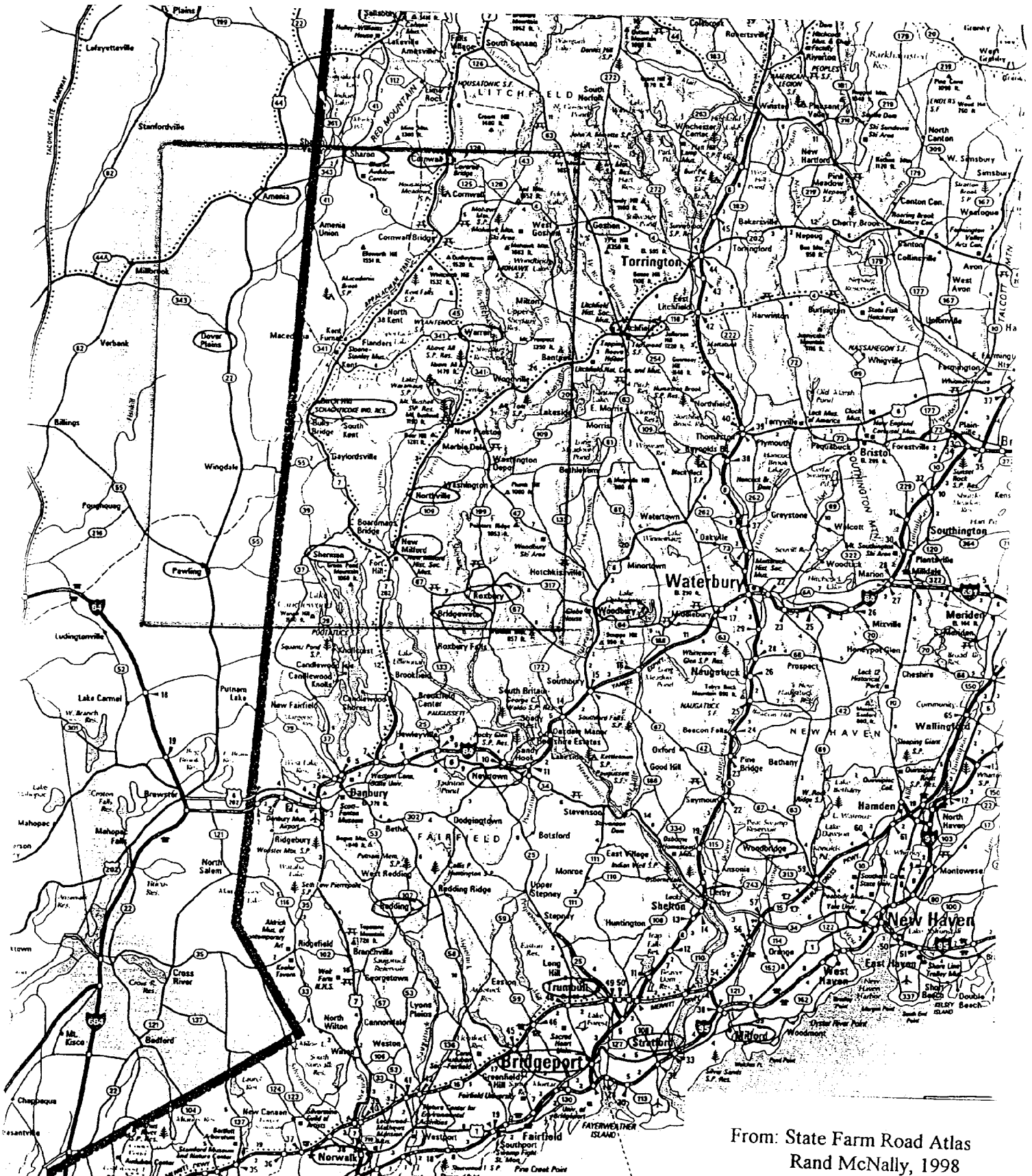
¹⁰¹Only minimal evidence that he was maintaining tribal relations. While he and his sons were well known to local residents as Schaghticoke, he was never mentioned in the overseer's records and appeared only once in other Schaghticoke records, as a signer of the 1876 petition.

Table 2
Mentioned Off-Reservation Residences of Schaghticoke, 1851-1860

This table brings the listing of off-reservation mentions up to the analysis of the 1860 residency done in the PF (STN PF 2002, 81-89).

- 1851 January, Jeremiah P. Pann died, Trumbull, Fairfield County, Connecticut [birth date ca. 1813; the Schaghticoke overseer paid the funeral expenses of his sister Anna Pann in 1864]
- 1851 ca., Jabez Cogswell married Marcia Ann Heddy, Sherman, [Fairfield County], Connecticut [residence of her family]
- 1851 ca., Josephine Jenkins born at Cornwall [Litchfield County, Connecticut]
- 1852 February 5, Lewis Cogswell born at New Milford [Litchfield County, Connecticut]
- 1852 ca., Henry Rogers born New Milford [Litchfield County, Connecticut]
- 1853 ca., Catherine Skickett born New York
- 1853-1855, Charles Cogswell born New Milford, [Litchfield County, Connecticut]
- 1854 May 1, Charles William Kilson born Wassaic, [Dutchess County, New York]
- 1854 ca., Frederick W. Cogswell born New Milford, [Litchfield County, Connecticut]
- 1854 ca, Cosina Skickett born New York
- 1855 ca., Edward Rogers born New Milford, [Litchfield County, Connecticut]
- 1856 August 8, Diana Jenkins born Cornwall, [Litchfield County, Connecticut]
- 1857 April 20, Emelia Rogers born New Milford, [Litchfield County, Connecticut]
- 1857 August 12, Sarah Ella Kilson born Lansing, Michigan
- 1858 ca, Sarah Van Rensselaer m. W. K. Mowers, New York [not in tribal relations]
- 1859 March 23, Rosetta Cogswell born Cornwall, [Litchfield County, Connecticut]
- 1859 August 9, Louisa M. Jenkins born Litchfield, [Litchfield County, Connecticut]
- 1860 March 13, Harriet B. Frank born New Milford, [Litchfield County, Connecticut]

WESTERN CONNECTICUT, Locations in Table 1 and Table 2 Circled



From: State Farm Road Atlas
Rand McNally, 1998

Table 3
Schaghticoke Endogamy/Exogamy Patterns 1801-1850

Many dates in this table are approximate (after x or before y), based upon the birth of a child, the appearance of the individual on a census, the mention of the purchase of a coffin in the overseer's ledger, etc.

Names	Beginning Date	Ending Date	Type (0=unknown, presumed exogamous; 1=Schaghticoke; 2=other tribe; 3=non-Indian)	Notes. Ordinarily, see the "Remarks" under each individual in the FAIR data base
Joseph Chuse Mauwee/Sarah ¹⁰²	before 1789	1803	1/1	Extant in 1800.
Elihu Chuse Mauwee/Sarah	before 1789	1809	1/1	Extant in 1800
Peter Mauwee/Eliza Warrups Chickens	before 1789	1812	1/1	Extant in 1800
Peter Sherman/Sibbil	before 1789	1802	1/1	Extant in 1800
Rufus Bunker/Roxa [Mauwee?]	before 1796	1842	1/1	Extant in 1800. STN calculated this marriage as exogamous. However, only one 20 th century secondary source identified Bunker's wife as white; the Schaghticoke overseer paid for her funeral, sending the money to her husband's overseer in Cornwall.
Benjamin Chickens/Sarah	1794-1800	1828	1/1	Extant in 1800

¹⁰²She was documented by Stiles in 1789 as having been born in the East Haven tribe; was enumerated by him on his 1789 Schaghticoke census, and was carried on the Schaghticoke overseer's records. This couple lived at Derby, New Haven County, Connecticut, prior to moving to Schaghticoke. Joseph was a son of Gideon Mauwee.

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Aaron Chappel/ Haner/Hagar	before 1794 ¹⁰³	1831	0/1 or 1/0	Either Aaron Chappel or the mother of his children ¹⁰⁴ was probably Schaghticoke; STN analysis hypothesized that "Haner/Hagar" was the Indian. However, the data submitted does not indicate that Hagar was the mother of the children - only that she was his widow as of 1831.
Abraham Rice/Martha Chappel	about 1800	1856	1/1	
Dennis Mauwee/Polly	before 1802	1812	1/1	
Peter Sherman/Eunice Mauwee ¹⁰⁵	about 1802	1812	1/1	

¹⁰³Johnson, Francelia C., comp., A Register of Some of the Families that have lived in Kent, CT 1739-1999.

Chappel, Aaron b. 1749; d. Mar. 24, 1831, Kent; bur. Preston Mtn. Cem., Dover, NY; m. Haner _____
Child: Lucy, b. 1794; d. Apr. 11, 1814, Kent; bur. Preston Mtn. Cem., Dover, NY

¹⁰⁴ http://www.familysearch.org/Eng/Search/IGI/family_group_record.asp?familyid+11663767...4/11/2003. Aaron Chappel and Martha Obadiah, November 24, 1774, Amenia, Dutchess, New York. It is not know whether this pertains to the same Aaron Chappel.

¹⁰⁵Petitioner's analysis (Austin 8/8/2003a, 28) included the prior marriage of Eunice Mauwee to John Sutnux. However, there is no evidence that John Sutnux survived past 1800.

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Jeremiah Cogswell/ Wealthy Gauson	about 1805	1848	1/3	The Cogswell Family (third party) asserted the existence of a prior endogamous marriage for Jeremiah Cogswell to Mary Ann Chickens. There is no evidence of such a prior marriage.
Ann/Unknown	before 1805	unknown (no death record for Ann)	1/0	Ann's child coffin October 1805
Mim/Unknown	before 1805	unknown (no death record for Mim)	1/0	Mim's child coffin October 1805
Schaghticoke/ White	about 1805-1815	before 1821, probably earlier	1/3	Lavinia Carter, granddaughter of Eunice Mauwee, born between 1805-1815
Schaghticoke/ Schaghticoke ¹⁰⁶	1809-1821	unknown	1/1	Rachel Mauwee, granddaughter of Eunice Mauwee, probably born ca. December 1812-1813 (date varies in different sources).
Joseph Mauwee/ Unknown	before 1809	1813 (date of Joseph's death)	1/0	Joseph's children mentioned, January 1814 and following
Jacob Mauwee/ Unknown	before 1812	after 1822	1/0	Jacob Mauwee, child's coffin February 1812; the funeral of a Jacob Mauwee was paid by the overseer in 1848; no evidence if it was the same man.

¹⁰⁶Lavinia Carter and Rachel Mauwee were each stated, during their own lifetimes (Lavinia so stated during the lifetime of Eunice, 1859), to have been granddaughters of Eunice Mauwee; one record made between 1881-1884 by a man who visited the reservation in company of overseer Henry Roberts and spoke with Lavinia stated that they were half-sisters, Lavinia's mother having been white, while Rachel was a full-blood.

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Pequot/ Pan [Schaghticoke]	before 1813	after 1817	2/1	John Harris born ca. 1813; Henry Harris born ca. 1817; said to be full-blood, with ascription of various tribes other than Schaghticoke. See Speck notebook 1903.
Pann [Jo Pene?]/ Unknown	about 1813	1820 or before	1/0	Jeremiah P. Pann born ca. 1813; Ann Pann born unknown date
Marianne Chappel/ Thomas Kelley	about 1814	before 1831	1/0	Kelley was mentioned in the Schaghticoke Account Book in April 1814, but only as receiving payment
Job [Suckanuck?]/ Eunice Job	before 1817	1820	1/1	Family mentioned in Schaghticoke Account Book September 1817
Charlotte Mauwee/ Timothy Vandore	about 1818	1835	1/3	Charlotte mentioned only once by the overseer, when he paid for her funeral.
Jeremiah Tomuck/ Unknown	before 1819	1837 or earlier	1/0	Family mentioned in Schaghticoke Account Book April 1819
Gideon Sherman/ Unknown	before 1819	1821	1/0	
Luman Taber Mauwee/ Hannah	1819	before 1829 (divorce)	1/0	
Nehemiah/ Unknown	before 1820	about 1825 (date of his death)	1/0	Miah child coffin April 1820
Aaron Chappel, Jr./Unknown	before 1820	after 1840	1/0	Did not maintain tribal relations

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Alexander Kilson/Parmelia Mauwee	1820	1844	1/1	
Schaghticoke/ Unknown ¹⁰⁷	1820-1825	unknown	1/0	Truman Mauwee- Bradley born June 1821- March 4, 1823 - about 1825 (various sources)
Nancy Chickens/ James Phillips	before 1822	1837	1/0	James Phillips not documented as Schaghticoke; the Phillips surname appears in an earlier Schaghticoke Account Book
Abraham Peters/ Unknown	before 1823	before 1831 (death of Abraham)	1/0	Abraham Peters child sickness and funeral mentioned in Schaghticoke Account Book November 1823
Walter/ Unknown	before 1824	1826 (death of Walter)	1/0	Walter's child coffin mentioned in Schaghticoke Account Book July 1824
Unknown/ Lavinia Carter	before 1824	Unknown	1/0	Birth of Laura Carter ca. 1824.
Schaghticoke/ Schaghticoke ¹⁰⁸	1828-1833	Unknown	1/1	Birth of Abigail Mauwee.
Luman Taber Mauwee/Sarah	1829	before 1834 (death of Luman Taber)	1/0	Family Bible record.

¹⁰⁷A Connecticut State genealogical chart made in the 20th century stated, without documentation, that Truman Mauwee/Bradley was said by some to be a half-brother of Rachel Mauwee and Abigail Mauwee (but not that he was a half-brother of Lavinia Carter).

¹⁰⁸Frank Speck 1903.08.15 notebook Schaghticoke. [James] Harris is full blood his mother being Abigail (Mawee) Harris (died 1899), a /granddaughter inserted/ daughter of Eunice Mawee granddaughter of Gidcon Mawee (Mawehu). . . Rachel Mauwee a sister of Abigail died 1903, aged about 90.

This 20th century record is the earliest statement of a relationship between Rachel Mauwee and Abigail Mauwee. While James H. Harris presumably knew who his mother and aunt were, this earliest record was not made during the lifetimes of the two women. If they were in fact full sisters, this would reduce the number of endogamous marriages by one.

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Fear/Unknown	before 1830	before 1834 (death of Fear)	1/0	Fear's child coffin mentioned Schaghticoke Account Book May 1830
Deborah Chappell/Isaac Rogers	before 1831 – probably long before 1831	1832 (death of Isaac)	1/0	Rogers not documented as Schaghticoke; the Rogers surname appears in earlier Schaghticoke records.
Nathan G. Cogswell/Melissa Price	1836	1881	1/3	No mentions by overseer; Nathan signed the 1876 petition.
Adonijah Cogswell/Unknown	before 1837	1837	1/1	Presumption that his wife was Schaghticoke is based upon the overseer's provision of a dress for her.
Jabez Cogswell/Marie Hamlin	about 1839	1850	1/3	
Sarah Rice/William Henry Fowler	about 1839	before 1871	1/3	Only one overseer's mention, 1865; did not sign petitions.
Sarah Bunker/van Rensselaer	about 1839	before 1880	1/3	Did not maintain tribal relations.
Loraine Vandore/George Parrott	about 1839	1880-1900	1/3	Two overseer's mentions, first in 1858-1859 and last in 1865
Luman Bunker/Unknown	before 1840	1860 or earlier	1/0	Wife in his household on 1840 census; not located in 1850; alone in 1860
Elihu Mauwee/Alma Mauwee	before 1840	about 1859	1/1	

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Eli Bunker/ Fannie Maria Watson	1842	before 1860	1/3	Eli appears alone on 1860 and subsequent censuses; he died in 1888.
Melissa Vandore/Homer Harris	1843	Unknown	1/3	Did not maintain tribal relations.
Truman Bradley/Julia Kilson	1846	1892	1/1	
Delia J. Kilson/Reuben Rogers	1846	after 1880	1/0	Rogers not documented as Schaghticoke; surname appears in earlier Schaghticoke records
Alexander Value Kilson/ Eliza Ann Kelly	1848	1899	1/1	
Laura Carter/ John Skickett	about 1848	1861-1867	1/2	Skickett an Indian from New York, probably Oneida
Mary Ann Phillips/Riley Cogswell	1849	about 1863	1/0	Riley Cogswell not documented as Schaghticoke
Emily Cogswell/ Abner L. Rogers	1849	after 1860	1/0	Rogers not documented as Schaghticoke; the Rogers surname appears in earlier Schaghticoke records. Did not maintain tribal relations.

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Caroline Kilson/ Albert Rylas	about 1849	1854	1/1	STN counted this marriage as exogamous; however Albert was cared for by Schaghticoke women in the 1830s and was listed as Indian on his civil death record; he would appear to have been a child of Walter.
Ann M. Cogswell/ William Jenkins	about 1849	after 1882	1/3	Did not maintain tribal relations
Abigail Mauwec/Henry Harris	about 1849	1895	1/1	James Henry Harris born 27 January 1850

**Table 4
Schaghticoke Endogamy/Exogamy Patterns 1851-1900**

This table includes those marriages listed on Table 3 that began in prior decades and are known to have continued past 1851. Many dates in this table are approximate (after x or before y), based upon the birth of a child, the appearance of the individual on a census, the mention of the purchase of a coffin in the overseer's ledger, etc.

Names	Beginning Date	Ending Date	Type (0=unknown, presumed exogamous; 1=Schaghticoke; 2=other tribe; 3=non-Indian)	Notes. Ordinarily, see the "Remarks" under each individual in the FAIR data base
Abraham Rice/ Martha Chappel	about 1800	1856	1/1	
Nathan G. Cogswell/ Melissa Price	1836	after 1880	1/3	Minimal evidence that he maintained tribal relations; no mentions by overseer; signed 1876 petition.
Sarah Rice/William Henry Fowler	about 1839	before 1871	1/3	Minimal evidence that she maintained tribal relations; only one mention by overseer in 1865; did not sign petitions.
Sarah Bunker/ van Rensselaer	about 1839	before 1880	1/3	Did not maintain tribal relations.
Loraine Vandore/ George Parrot	about 1839	1880-1900	1/3	Minimal evidence that she maintained tribal relations; two mentions by overseer 1858-59 and 1865; lived to 1900 but did not sign petitions.

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Luman Bunker/ Unknown	before 1840	1860 or earlier	1/0	Female in household on 1840 census; listed as married on death record; no documentation if it was the same marriage throughout the two decades.
Elihu Mauwee/ Alma Mauwee	before 1840	about 1859	1/1	
Eli Bunker/Fanny Maria Watson	1842	Unknown - apparently before 1860	1/3	He lived until 1888, but the census did not a record a wife from 1860 onward.
Truman Bradley/ Julia Kilson	1846	1892	1/1	
Delia J. Kilson/ Reuben Rogers	1846	after 1880	1/3	Rogers not documented as Schaghticoke; the surname appears in prior Schaghticoke records.
Alexander Value Kilson/ Eliza Ann Kelly	1848	1899	1/1	
Laura Carter/ John Skickett	about 1848	1861-1867	1/2	Skickett an Indian from New York, probably Oneida
Mary Ann Phillips/ Riley Cogswell	1849	after 1863	1/0	Riley Cogswell not documented as Schaghticoke.
Emily Cogswell/ Abner L. Rogers	1849	after 1860	1/0	Rogers not documented as Schaghticoke; the Rogers surname appears in earlier Schaghticoke records. Did not maintain tribal relations.

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Caroline Kilson/ Albert Rylas	about 1849	1854	1/1	STN counted this marriage as exogamous; however Albert was cared for by Schaghticoke women in the 1830's and was listed as Indian on his civil death record; he would appear to have been a child of Walter (no surname in overseer's records)
Ann M. Cogswell/ William Jenkins	about 1849	after 1882	1/3	Did not maintain tribal relations
Abigail Mauwee/ Henry Harris	about 1849	1895	1/1	James Henry Harris born 27 January 1850; marriage recorded in 1864.
Rachel Mauwee/ John Harris	about 1851	after 1870	1/1	Charles Henry Harris, born about 1852
Jabez Cogswell/ Marcia Ann Heddy	about 1851	1901	1/3	
Joseph D. Kilson/ Mary Jane Kelly	1852	before 1857 (divorce)	1/1	
Mary Ann Kilson/ Lazarus Frank	1855	1882	1/3	
Joseph D. Kilson/ Nancy M. Kelly	1857	1871	1/1	
<i>Sarah Van Rensselaer/ W. K. Mowers</i>	<i>about 1858</i>	<i>after 1880</i>	<i>1/3</i>	<i>Not included in the calculations. Her mother did not maintain tribal relations.</i>
Caroline (Kilson) Rylas/ Oliver Potter	about 1858	after 1860	1/3	
Rosetta Cogswell/ William Peters	1859	1891	1/3	

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<i>Mary Jane Fowler/ Peacher</i>	<i>before 1867</i>	<i>before 1879</i>	<i>1/3</i>	<i>Included in the calculations because of the overseer's 1865 mention of her mother. Did not maintain tribal relations.</i>
George H. Cogswell/ Sarah Lavina Bradley	1867	after 1880 (separation)	1/1	She lived until 1909; he until 1923. Marriage excluded from the endogamy calculations after 1880.
Newton Cogswell/ Pauline M. Hofmann	1867	1876	1/3	No evidence that he maintained tribal relations; never mentioned by the overseer.
Charles William Kilson/ Sarah Peters	about 1869	after 1875	1/3	
Benjamin Rogers/ Unknown	about 1870	after 1885 (estimate)	1/3	Did not maintain tribal relations.
Mary Jane Kelly/ Theodore Abel	1872	1893	1/3	
Helen A. Bradley/ Andrew Burr Phillips	1874	1892	1/3	
Frances J. Bradley/ John Smith	1874	1911	1/3	Necia (Shanks) Hopkins asserted that John Smith's mother was Schaghticoke. There is no evidence that she was.

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James Henry Harris/Sarah Snyder	about 1875	1909	1/3	See the footnote under criterion 83.7(e) indicating that OFA has concluded that Sarah Snyder, Sarah Collins, and Sarah Williams were alternate names for the same woman.
Sarah Ella Kilson/William O. Schmidl	1876	1895	1/3	Did not maintain tribal relations.
George Wesley Bradley/Lillian J. Penfield	1877	1901	1/3	
Emelia Rogers/Amos Taylor	about 1877	after 1885 (estimate)	1/3	Did not maintain tribal relations.
Mary Ett Kilson/Edward Watson	before 1879	after 1883	1/3	
Harriet B. Frank/Unknown	before 1879	unknown	1/0	Birth of child Myrtie Frank 1879. There is no evidence as to whether this is the same relationship with the man Harriet married a year later.
Charles Lyman Kilson/Alice Estella Dwy	1880	after 1898	1/3	
Harriet B. Frank/William McGill	1880	unknown	1/3	
Augusta Rogers/Collier Black	after 1880	after 1887	1/3	Did not maintain tribal relations.

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Sarah Lavina Bradley/Charles Lane	after 1880	before 1909	1/3	Supposed elopement; based on modern interview data, unconfirmed; similar date to verified story concerning Charles Henry Harris and Helen Lossing Skickett.
Helen Lossing Skickett/Henry E. Wilmot	1881	1885	1/3	
Charles Henry Harris/Helen Lossing Skickett	about 1882	1882	1/1	Temporary elopement, which took place during her marriage to Wilmot.
Walter Rylas/Charlotte Jackson	1882	unknown (Walter died in 1913)	1/3	
Ida Elizabeth Kilson/Frank DuPrez	about 1883	before 1887	1/3	Birth of child 1884.
John Henry Bradley/Georgianne V. DeCosta	1884	unknown (he died in 1936)	1/3	
William Rogers/Mary Black	after 1885 (estimate)	unknown	1/3	Did not maintain tribal relations.
Charles William Kilson/Mary Elizabeth Beers	before 1887	unknown (he died in 1934)	1/3	
Cornelia J. Bradley/James Fuller	1886	after 1902	1/3	childless
Ida E. Kilson/David D. Thomas	1887	after 1913	1/3	
John William Kilson/Ida Laura Staples	1889	1892-1898	1/3	
William Truman Cogswell/Gertrude G. Johnson	1890	1942	1/3	

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Minnie Kilson/ William H. Bixby	1892	unknown (she died after 1942)	1/3	Did not maintain tribal relations
Truman Bradley/ Mary Jane Kelly	1893	1900	1/1	
Carrie B. Phillips/ George William Riley	1894	1935	1/3	
Sarah E. Kilson/ Frank White	1895	after 1903	1/3	
Alice L. Bradley/ Charles F. Hawley	about 1896	1902	1/3	
Mary Ett Kilson/ Peter Jessen	1896	1915	1/3	
Florence J. Smith/ Hubert Johnson	1896	1949	1/3	
Elsie Harris/ Albert Bishop	about 1897	1898	1/3	
Bertha Watson Kilson/ Charles Stevenson	about 1897	before 1903	1/3	
Elsie Harris/ Erwin Dwy	about 1899	1900	1/3	
Grace E. Harris/ Alfred R. Storm	about 1899	1958	1/3	
<i>Edward Parrott/ Harriet</i>	<i>before 1900</i>	<i>after 1915</i>	<i>1/0</i>	<i>Not included in calculations - not in tribal relations</i>
Lois Harris/ Louis Townsend	about 1900	before 1927	1/3	

Appendix II. Predecessor Tribes of the Schaghticoke.

Appendix IIA.

The Weantinock Indians in Connecticut 1646/1671 - ca. 1760/1774.

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), p. 231. Document 1. 1646: Entry in Winthrop's Journal (1630-1649). The merchants of New Haven had purchased some land of the Indians about 30 miles northwest upon the Pautucket river; set up a trading house; Dutch governor protested. Source: Hosmer 1908, 2:278. Orcutt (1882a:107-108) and Andrews (1888) shown that the land bought by Stephen Goodyear in or shortly before 1646 was a small island in the Housatonic river near the Indian settlement of Weantinock in New Milford; further discussion (see Hoadley 1857:265-266).

In 1852, DeForest's Chapter X (DeForest 1852, 389-398) categorized this settlement as "New Milford Indians" and argued that these were a "New Tribe" formed after contact with European settlers, stating, "I cannot find that it ever had a distinctive name" and, "It was unquestionably a mere collection of refugees and wanderers, who had migrated hither from the southern and eastern parts of Connecticut, to escape from the vicinity of the English settlements" (DeForest 1852, 389). Wojciechowski's Ethnohistory of the Paugussett Tribes (Wojciechowski 1992) argues persuasively against DeForest's hypothesis.

DeForest himself wrote: "The country around New Milford was styled Wyantenock; and the chief residence of the Indians was at the falls on the Housatonic, called by the natives Metichawon," indicating that Weramaug's "great wigwam" was at this place (DeForest 1852, 392-393).

"President Stiles tells us that the Indians of new Milford were on terms of alliance with those who lived at Scatacook or Kent, at Pomperaug or Woodbury, at Bantom or Litchfield, and at Weataug or Salisbury" (DeForest 1852, 393).

"Cothren's [Cothren 1871] position with regard to the Weantinock (called by him 'Wyantenuck' or New Milford Indians) also differs from the one DeForest holds; The Weantinock settlement was not a postcontact development, a refugee community made up of several tribal remnants displaced by the English. On the contrary, the Weantinock were an old clan of the Potatuck tribe which already existed before the coming of the whites. In the first half of the eighteenth century, so Cothren argues further, Potatucks from the Newtown-Woodbury area migrated to Weantinock after having sold their lands to the English. They migrated to Weantinock in such numbers that eventually this community became the chief settlement of the Potatuck tribe, and after this had happened the name of the tribe also changed from Potatuck to Weantinock (Ibid:85-89)" (Wojciechowski 1992, 23). Analysis of Cothren's argumentation on why he considered the Weantinock a subclan of the Potatuck (Wojciechowski 1992, 23-24).

Samuel Orcutt, *The Indians of the Housatonic and Naugatuck Valleys*. "The first 6 chapters of this work are an expanded version of the 'Indian History' part of the history of Derby . . . Chapters

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7 and 8 deal with the New Milford Indians, and consist of material not put into print before by Orcutt" (Wojciechowski 1992, 27). In chapters 7 and 8, Orcutt changed his opinion from that expressed in the History of Derby and argued here that the New Milford Indians came first from the locality of Shekomeko in Dutchess Co., NY (Wojciechowski 1992, 28).

J. Mooney, "Wawyachtonok," in Hodge 1910, 2:924, covers the Weantinock or New Milford Indians; considers them a tribe or band of the Mahican confederacy, based on Rutenber 1872 (Wojciechowski 1992, 34).

Trumbull, Complete History of Connecticut, says New Milford was the principal seat of the Indians in the County of Litchfield; the seat of the chief sachem was near the Great Falls; named Wehononague; the other Indians supposed to be in friendship with them.

Soulsby 1981, 65 (same person as Guillette 1979), argues that this was the larger settlement of the Pootatuck/Potatuck, considered the main seat of government of the tribe, and located in New Milford, just below the falls of the Housatonic.

Dwellers at the wean-adn-auk, the winds-mountain-place, where the river winds around Long Mountain in New Milford (Chard Powers Smith, The Housatonic 1946, p. 40).

". . . in May, 1670, the General Court of Connecticut granted liberty to . . . purchase Weantenock and the lands adjacent of the Indians . . . this transaction took place in 1671 (see Appendix D, doc. 2, the deed being signed by Pocono, Ringo, Quoconoco, Whimta, and several others. Because part of the area sold overlapped the territory of the neighboring Potatuck, the mark of the Potatuck sachem Chusumack is also found on the deed. In this 1671 deed the Housatonic River is called 'The great river Ouantenok', a further indication that we are now in Weantinock territory, for lower down the river, the Housatonic is called 'Potatuck River' in the Potatuck territory (see the documents contained in Appendix C)" (Wojciechowski 1992, 46).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 231-233. Document 2. April 25, 1671: Stratford deed. Pocono, Ringo & Quoconeco & Whimta to Henry Tomlinson. Signed: Pocono his mark, Ringo his mark, quoconoco his mark, oromanhed his mark, Coshashamak his mark sachem, weekpenes his mark,, wisenco his mark, pomantock his mark, Matayet the sachems eldest son, Tomo his mark ye 2d son of Matayet, toto his mark, mohensats his mark, Chetemhekeam his mark, oshoron his mark, papisconnos his mark. Recorded 15 February 1696. Source: Stratford Land Records (MSS), Volume 2, p. 466. Abstracts in Orcutt & Beardsley 1880:40 and Orcutt 1882b:16-17. About 26,880 acres (Orcutt 1886:25). Protest made in 1677 to the General Court of Connecticut by Scantamaug of Wyantenuck (Orcutt 1882b:5).

1675, the General Court of Connecticut made a treaty with the Indians of western Connecticut in order to prevent them from joining in King Philip's War; it included the New Haven Indians, the Milford Indians, and the Wyanteneck Indians (Cothren 1871:100) (Wojciechowski 1992, 24).

"Many writers have assumed that the Weantinock were just a subdivision of the Potatuck (see chapter 3). This is an incorrect interpretation, for in 1687 the Weantinock chiefs were Wanamanheet, Pinawee, and Pachkanass (Appendix D, doc. 3), at a time when Chusumack was chief of the Potatuck; and these three Weantinock chiefs when dealing with New York Colony did not need the mark of Chusumack to make their agreement valid (Wojciechowski 1992, 46).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 233-235. Document 3. January 24, 1686/87: Weantinock memorandum. Names of the Wawyachtenokse sachems: Wanamanheet, Pinawee, Pachkanass. Memorandum, Albany, NY; they said that they were brethren with the Indians of Tachkanik, Roeloff Jansens Kill, and other River Indians. Had decided to stay where they were rather than moving into NY. Source: Leder (1956:108-109). Further discussion and analysis (Wojciechowski 1992, 234-235).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 235-236. Document 4. August 9, 1702: Stratford deed. Pocono Wemett Mamameco Stupen Paquahon Cush & Hurst Indian proprietors of land at Ouantenack . . . former sale of 23 April 1671 ratified; Pocono his mark, nanhotuho his mark, Wemett his mark, Cush his mark; Indian interpreter Paquahon his mark; Indian witnesses Siecus his mark, Metack his mark, Mattecus his mark, Poconos son, Papepeto his mark Sachem of Oantenock. Acknowledged 19 August 1702; recorded 22 March 1707/8. Source: Stratford Land Records (MSS), volume 2, p. 497. Inaccurate abstract in Orcutt 1886:29. May be an irregular deed, as it overlaps with the 8 February 1702/1703 Milford deed taken with permission of the General Assembly (Wojciechowski 1992, 236).

"The first settlers of New Milford were from the old town of Milford on the Sound. They bought the township from the native proprietors, on the eighteenth of February, 1703, . . . The first Indian name mentioned in the deed, and the first on the list of signers, was Papepoppe; from whence it is possible that he at that time was sachem. The others are Rapiscotoo, Towcomis, Nanhootoo, Hawwasues, Yoncomis, Shoopack, Weinapouck, Docames, Paramethe, Wewinapuck, Chequeneag, Papiream, Nokopurrs and Paconaus. It is witnessed by the interpreter, John Minor; and by Ebenezer Johnson, John Durand, Wonawak and Tomaseete . . . it was not recorded until 1756, . . ." in the 9th volume, p. 269 (DeForest 1852, 391).

Weantinock territory sold to New Milford in 1703 (Orcutt 1886, 3).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 236-239. Document 5. February 8, 1702/03: New Milford Deed. We Papepoppe, Rapiscotoo, Wampotoo, Hawwasues, Yoncomis, Shoopack, Parameshe, Nokopurrs, Paconaus, Wewinapouch, Do for ourselves and the rest of our friends the Indians sole proprietors . . . signed Papepoppe his mark, Rapiscotoo his mark, Towwecomis his mark, Wompotoo his mark, Nanhootoo his mark, Hawwasues his mark, Yoncomis his mark, Shoopack his mark, Wewinapouch his mark, Pocanus his mark, Paramethe his mark, Wewinapuck his mark, Chasqueneag his mark, Papiream his mark; witnesses Tomoseete his mark, Nonawak his mark.

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New Milford Town Rec. vol. ix, 269. Source: Orcutt 1882b:6-7. Initially recorded in the Milford Records (Lambert 1838:152); not recorded in New Milford until 1756; further discussion.

Had 19 warriors in 1703 (Census of J. Minor, in Butler Papers MSS). Total population 49 in 1725 (Talcott 1896:397). (Wojciechowski 1992, 85).

List of the Numbr & Names of the Indians belonging to to, or residing in ye Countys of New Haven & Fayrefield: Taken the 28th & 30th of August a d 1703 By John Minor (FAIR CT-V007-D051; SN-V070-D0160) Oweantanuck Indians

Pomkinseet
Paccannaz
Chuhabaux
Younggams
Apperock
Dowhooks
Wunnuppee
Mannetoos
Young pomkinseet
Wuttogeseet
Whemutt
Promises
Cosumboss
Chanooss
Petawuppe
Chebamee
Qunkquttenett
Cowepay
Toummas

"A considerable tract of ground, which is now known as the Indian fields, and lies on the west side of the Housatonic, opposite to the village of New Milford, still remained to the Indians after this [1703] sale. This tract was sold in 1705, [September 8th,] to John Mitchell of Woodbury, by one Shamenunckgus, who styled himself its sole proprietor. The paper was signed by Shamenunckgus himself, by Papetoppe, who signed the first sale, Chesqueneag, Whemut, Wannuppe, Cuttouckes, Joman, Appacoco, Yongan, Yongan's squaw, Papetoppe's squaw and Mantooe's mother" (DeForest 1852, 392; citing New Milford Records, Vol. II, p. 3, Recorded November 26th, 1714).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 239-240. Document 6. August 29, 1705. New Milford deed. I Shamenunckqus, alias Baptistoo, ye absolute proprietor to the fields at Weantanuck that was a late purchase made by ye honorable gentlemen of Milford, reserved for ye Indians improvement . . . signed: Shamenunckqus his mark, Chesquaneag his mark, Whemut his mark, Papetopo, alias Pompkinseds; subscribed on the other side: Wannuppe his mark, Cuttouckes his mark, Mantooes

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his mother's mark, Papetapo, his squaw's her mark, Younggam's squaw her mark, Joman his mark, Appacoco his mark, Poquanow his mark, Yongans his mark. Source; Orcutt 1882b:10-11. Recorded New Milford Records, Volume II, page 3, 26 November 1714; further discussion of lands that the Weantinock still held in New Milford as late as 1726 based on Orcutt 1882b:11, 34 and Campbell, Sharpe & Bassett 1902:217-218 (Wojciechowski 1992, 240).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 240-242. Document 7. December 29, 1705: Fairfield deed. Mathice alias Wunnemene ye absolute sole proprietor . . . bounded northerly with ye land of Popetopoe alias Pominskeed . . . Matchise his mark; Indian witnesses Wanhump his mark, Chesquaneg his mark, Cagshuaeeh his mark; acknowledged at Woodbury. Source: Connecticut State Library Documents (MSS), certified copy made 20 February 1767, Fairfield Land Records, Volume II, page 331.

In 1707 an epidemic struck both the Weantinock and Potatuck Indians (Connecticut Colony Records 1850-1890, 5:15; Orcutt & Beardsley 1880:lxviii-lxix) (Wojciechowski 1992, 89).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 242-243. Document 8. June 19, 1716. New Milford Deed. We, Weramaug of Oweantunuck and Nepato of Knunckpacooke, Indian proprietors of the land that lies along Stratford Great River, northerly from Milford . . . Weramaug's mark, Nepatoe's mark; witnesses; Jacob's mark, Tanhook's mark, Mauhehu's mark, Simon's mark. Knunckpacook was a locality on the river in Kent, or a little above. Source: Orcutt 1882b:104; Deed recorded in New Milford Records, Volume I, page 73; another copy in Connecticut Archives, Towns and Lands (MSS), Volume IV, pages 36-37. According to Orcutt (1882a:117) the full text contains the statement that Weramaug was "kinsman to Nepatoe."

"As I have already mentioned, the natives early parted with the Indian fields; but they long kept a reservation at the falls in the Housatonic; and Weramaug also made another, of two thousand acres, which was comprised in what is now the society of New Preston in Washington. This last was sometimes called the hunting grounds of Weramaug, and was eventually sold (some of it, at least) by Chere, son of the sachem" (DeForest 1852, 394).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 243-244. Document 9. October 22, 1720: Deed of northern Weantinock territory. Waramaug's Deed and Reserve. Know ye that Weramaug, Weraroquin alias Curlow, Nepatoo, Ahanyeam, Mawehew, Owound, Tawhood, Paconopect, Tackahound alias John Wawnough, and Wassomaug, Indian proprietors and owners . . . to Windsor . . . hands Weramaug his mark, Mawehew, Paconopect, Wearoquin, Wossomaug, Takahound, Nepatoo, Awhound, Wonwnough, Ahanjean, Towhook, Hartford, oct. 22, 1720. Colony Records of Deeds & Patents, Vol. 3. Source: Orcutt 1882a:118-119. Large parts of the present towns of Warren, Cornwall, Canaan, Norfolk, Goshen and the surrounding area; reservation contained more than 20,000 acres.

Population estimated under Weramaug at about 200 (Trumbull 1818:II:58) (Wojciechowski 1992, 84).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 244-247. Document 10. June 23, 1722: Deed for part of Weramaug's Reserve. I Warramaug Sachem of Weantenuck in the County of New Haven Connecticut to the Towns of Hartford and Windsor . . . reserve right of hunting, fishing, and fowling within the whole territory . . . sign Warromaug, acknowledgment; Indian witnesses Jacob his mark, Shehow his mark, Symon his mark, Borredge his mark. Source: Connecticut Archives: Towns and Lands, Volume IV, pages 34-36. Further extensive discussion (Wojciechowski 1992, 246-247).

By 1725 the population of the main Weantinock settlement had farther decreased to only 49 (Talcott 1896:397) (Wojciechowski 1992, 89). In August 1725, they planned with the Potatuck for armed resistance to encroachments by the colonists, which was reported to the General Assembly (Connecticut Colony Records 1850-1890, 6:551); they were placed under "strict supervision of white overseers" (Indian Papers, Series 1, Volume 1, Doc. 117-120) (Wojciechowski 1992, 89).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 247-249. Document 11. April 24, 1729: Deed in the Sherman-New Fairfield area. We Cockkenon and Mauwehue oners and proper proiators of all the unsold lands with in the Grant of new Fairfield . . . bounded east on New Milford and the Ousetonack River, west on land under the gouernement of New York . . . Cockkenon his mark, Mawwehue his mark; witnesses: Catorukese his mark, Won pound his mark, Jacob Curkey his mark, Shonin his mark, Quepy his mark, ComCukeSon his mark, Ceape his mark, Siecuss his mark, Jomes his mark, Shoeen his mark, Oce res his mark. Source: Connecticut Archives; Towns and Lands, First Series, volume 8, part 1, doc. 4. Constitutes the town of Sherman (separated from New Fairfield in 1802) and the northern extremity of present-day New Fairfield.

"In 1736, part of the New Milford Indians migrated to Scatacook, and took up their residence on the plain on the west side of the river. Their desire to remaining here having been communicated to the Assembly, an order was passed, forbidding any white person to lay out a farm on this plain . . . (Deforest 1852, 396; citing Indian Papers, Vol. I, Doc. 170). Then DeForest began a description of the work of the Moravian missionaries at Schaghticoke.

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 249-250. Document 12. May, 1736. General Assembly decision. May 1736 session. This Assembly being informed that a parcel of Indians that sometime dwelt at New Milford are removed and settled on the west side of Ousatunnuck River, in a bow of the west side thereof, about three or four miles above new Fairfield, upon a piece of plain there, and have a desire to continue at said place . . . Source: Connecticut Colony records (1850-1890), volume 8 (1874), pp. 38-39. Further discussion and analysis of the removal to Schaghticoke with additional documentation. See also Wojciechowski 1992, 89-90.

1736 May. This assembly being Informed that a percell of Indians that some time dwelt at new Milford are Removed & Settled on the west side of Housatunnuck River in a Bow on the west side thereof, about three or four miles above New Fairfield, upon a piece of plaine Land there, & have a desire to continue at sd place; whereupon it is resolved by this Assembly that the sd Indians do continue where they are Now Settled during the pleasure of this Court, and no Person shall lay out any Grant or farm on sd plaine piece of land, without the Spetiall leave of this assembly. And it is further hereby enacted and Resolved that whosoever shal contrary to this order Survey or cause to be surveyed or laid out any grant of this Court in ye place aforesd shall not thereby procure any title yrto (Connecticut Archives, Indian papers, series 1, vol. 1, part 2, 170; see also CT Public Records 1874a, 38-39).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 250. Document 13. July 17, 1741: Schaghticoke deed in the Kent area. We, Maweho, Tom Cuckson, James, Watau, Coness, Indians, all of Scaticook, sell to John Read 200 acres of land on Stratford River . . . marks. Source: Orcutt 1882b:17; gives as source "the Land Records at Hartford" and mentions that Read traded this land with an Indian called Chickins in 1748 (see the commentary added to Appendix B, document 37).

In 1742, the Potatucks united with the Indians of New Milford in a petition to the Legislature for a school and a preacher; marks of Mowehu, Cheery and nine other Indians; states the number of the Potatucks at forty and that of the New Milford Indians at thirty, individuals (DeForest 1852, 353).

1742 petition to the Connecticut General Assembly for missionaries; together with Cheery, son of Raumaug; on behalf of the Indians at New Milford and Potatuck (Cothren 1854, 1:103). Co-signers: Mowchu, Job, Sam, Peeney, Simon, John Coksure, Pukin, John Sherman, Cheery (Cothren 1854, 1:104). The Assembly recommended the New Milford Indians to the pastoral care of the ministers of New Milford and voted 40 pounds to enable them to attend school and preaching in that town; some of the Indian children attended the schools both winter and summer (DeForest 1852, 397; citing Indian Papers, Vol. I, Documents 240, 241, 243).

Wojciechowski 1992. Appendix D: Annotated Documents Relating to the Weantinock (Schaghticoke), pp. 250-252. Document 14. May 13, 1742, Petition to the General Assembly. Memorial of New Milford and Potatuck Indians to the General Assembly. The humble memorial of Mowchu Cherry and others Hereunto subscribing Being Indian Natives of this Land . . . Mowchu, John Cokune, Cheery, Job, Pukin, Peenees, Sam Cherry, John Sherman, Simon, Cont, John Hatchet. Source: Law Papers (1907:42043). Comment that the reply showed them living "near unto the borders of New Milford."

Scatticook, 3 miles on River, about 30 wigwams, about 150 Souls Indians, the remains of the New Milford Tribe. 1762 entry in Stiles' notebooks (Stiles 1916:172).

"When the Moravians left this part of the country, a large part of the new Milford Indians left also, and moved with their teachers to Pennsylvania. Many of them died there; others returned to

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Connecticut and settled at Scatacook. they still retained their land at the falls in New Milford, and used to come down from Stockbridge, every year, to fish for Lampreys . . . This stand they never would part with, although they had sold every other part of their ancient patrimony. By the census of 1774, it appears that there were no Indians remaining in the town, but they still held their right to this fishing place" (DeForest 1852, 397).

Appendix IIB.

The Potatuck Indians in Connecticut, 1668 - ca. 1761/1774.

Northwest of the Paugussetts, within the limits of Newtown, Southbury, Woodbury and some other townships . . . (DeForest 1852, 51).

Poodatook (country about the falls) near Newtown, Connecticut (Year Book, Dutchess County Historical Society 31 (1946):41).

On the west bank of the river, above the Pequannocks and opposite the Paugassets, inhabitants of the powntuck-uck, the Falls Place, the region around Derby Falls, modern Shelton (Chard Powers Smith, *The Housatonic* 1946, 39). There were numerous "falls places" along the river, another giving its name to a little subtribe around Newtown (Smith 1946, 40).

"In the northwestern part of the Paugussett territory, the deeds of the Potatuck Indians (who definitely were part of the Paugussett tribes, as we have seen earlier in this chapter), extend eastward to the Naugatuck River in the area covered by the present towns of Torrington and Litchfield (Appendix C, Doc. 22, this volume). The deeds pertaining to the land located east of the Upper Naugatuck River were signed by the Tunxis ('Farmington') Indians, whose identity as a Connecticut River tribe is well established (Anderson 1892:16, 27-35; Boyd 1873:10-13; Bronson 1858:2-3, 62-64; DeForest 1852:52-53)" (Wojciechowski 1992, 16).

"Cothren [Cothren 1872:85-86] disagreed with DeForest on the position of the Potatuck (spelled by Cothren as 'Pootatuck'). Moreover, he supported his disagreement with documentary evidence not consulted by DeForest, namely the Indian deeds contained in the town records of Woodbury. Cothren especially disagreed with DeForest's conclusion that the Potatuck were only an insignificant clan: 'It is believed, if the author had made a somewhat more careful inquiry, he would hardly have placed the Pootatucks so much below the other tribes of Connecticut' (Ibid:84). Far from being insignificant, so Cothren argues, the Potatuck 'had clans at Nonnewaug, Bantam, Wyantenuck, besides their principal seat on the Housatonic' in the Newtown-Woodbury area (Ibid:85). Moreover, 'the names of their chiefs are appended to deeds of sale extending from 'Pequannock' in Bridgeport on the south, to Goshen and Torrington on the north, and from Waterbury on the east to the new York line on the west; comprising the territory of fifteen towns surrounding and including Woodbury' (Ibid:86). The main evidence for the above statements evidently consists of the Indian deeds lodged in the Woodbury town records. However, no systematic use is made by Cothren of these deeds in order to support the foregoing conclusion concerning the extent of the Potatuck territory" (Wojciechowski 1992, 23).

"Some of the Tunxis deeds extend westward a few miles across the upper Naugatuck River and then have some overlap with Paugussett deeds to the west of the river (Ibid). The Paugussett deeds in the upper Naugatuck River area (i.e. north of the present town of Naugatuck), however, never extend east of the Naugatuck River (For particulars, see the documents contained in

Appendix C, this volume). This means that the northeastern boundary of the Paugussett territory was in the upper Naugatuck River area, and that the territory claimed by the Paugussett and the Tunxis showed some overlap here" (Wojciechowski 1992, 16).

"Cothren is explicit about the relation between the Paugussett (-Wepawaug) of the Derby-Milford-Stratford area and the Potatuck: 'It is well established by record evidence, that there was a close relationship . . .' (Cothren 1871:86). According to Cothren, a major factor in keeping the tribes together was the hostility of the Pequot to the east of them, and the Mohawk to the (north) west of them. As an example of the close relationship between the Paugussett-Wepawaug and the Potatuck, Cothren cites a September 9, 1661 deed signed by 'Wompegan, Sachem of Paugassett, supposed to be the nephew of Tautannimo, by Ackenotch, his sagamore, and Ansantaway, his father'. this deed was confirmed by 'Aquiomp, then Sachem at Pootatuck' on May 8, the following year. In this confirmation it was stated that Aquiomp was related to Wompegan (Ibid:22,88)" (Wojciechowski 1992, 24).

Samuel Orcutt, *Indians of the Housatonic and Naugatuck Valleys* (Orcutt 1882a). "Orcutt on page 34 simply repeats the conclusion voiced in the 1880 history of Derby, namely that at first the Indians lived in the area of the mouth of the Housatonic River, and only after the coming of the whites began moving upstream: '... the Paugasucks of the sea-coast removed inland, as we have seen, and made their principal seat at the lower end of the Naugatick valley ..., which was their headquarters from about 1660 to about 1680, when they began to collect at Wesquantuck (at the mouth of Four Mile River) and to join the Potatucks at Pomperaug'. Moreover, he does not account for his use of the term 'Paugasuck' to refer to the tribe, which on page 12 he still called 'Wepawaugs'. (Wojciechowski 1992, 29).

Lived on the west side of the Housatonic River, especially in present Shelton. Other Potatuck clans occupied an area encompassing Southbury and Newtown, and extending northward along the Shepaug and Pomperaug Rivers as far as Bethlehem and Litchfield. In the late 17th and early 18th centuries, the Potatucks sold most of their land to European settlers, reserving only a small village tract in Southbury. They later sold that land too, and surviving tribal members joined the Weantinocks in New Milford and the Schaghticoques in Kent. In fact, some evidence suggests that after 1710 the Schaghticoques largely consisted of remnants of various clans which had previously dwelt farther south and east and were of the larger Potatuck tribe Bethany (Historic Preservation in Connecticut Volume IV, 1996, p. 13). Schaghticoke Pet. Ex. A-254.

Major Potatuck settlement was near Newtown, or between Newtown and what is now Southbury, in the Town of Woodbury (Wojciechowski, p. 99).

Soulsby argues that Weantinock was the larger of two Pootatuck settlements, the smaller being that in Newton-Woodbury-Southbury (Soulsby 1981, 65). NOTE BY VED: This would appear to derive from Cothren.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 201. Document 1. August 16, 1668: Deed in the Derby area. I Puckwomp, by virtue of full power unto me given . . . by my brother Kehore now living in Hartford, who hath sent his son Nanatoush to joint with me to sell to Joseph Hawley and Henry Tomlinson both of Stratford . . . all that tract of land lying upon Great Neck near unto Paugasset . . . Atterosse, Sagamore, his mark; Poquonat his mark; Nanatoush, his mark; Cherakmath his mark; Kehore his mark; Chesusumock his mark; Rourkowhough his mark; Machetnumledge, his mark. Source: Orcutt & Beardsley 1880:33. Location was south of the tract bought on May 18, 1670, by Alexander Bryan - see Appendix C, document No. 2. According to Orcutt (1882a:44) this was a Stratford deed. Not located by Wojciechowski in either the MSS Stratford Land Records or in the published Derby Town Records (1901).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 201-202. Document 2. May 18, 1670: Derby deed. Sale of a parcel of land lying in the great neck between Pagaset river & Potatucke River . . . free consent of our Sachem Cocoshemak . . . coshoshemake his mark, wataquenock his mark, wasawas his mark, atrechanasett his mark, Johns his mark, Sasosoe B his mark; Witness: Chubbs marke, Keke Sumun his mark. Source: Derby Town Records (1901:308-309). According to Orcutt & Beardsley (1880:35) this tract contained about 500 acres. Orcutt (1882a:18) mistakenly refers to this deed as May 18, 1671. Some of the Indian names on this deed belong to the Paugussett Indians, indicating that to this area apparently both tribes had some claim. Evidently the boundary between Potatuck and Paugussett territory ran through (or near) this tract.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 202-203. Document 3. July 1, 1671: Stratford deed. Know all men yt wee perainos and Cockapatous being right owners of a tract of land lying upon Potatuck River . . . bound of Pocanos land on the south wch is now sould unto Henry Tomlynson . . . Witness: Perainos his marke, Cakapetous his marke, Pockowimp his marke, Caushamoke Sachem his marke, Quaronunqui his marke, Weccopomis his marke; Apethis his marke. Source: Stratford Land Records (MSS), Volume 1, page 492.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 203-204. Document 4. April 22, 1672: Stratford deed. Mawquash & Quiomp to Samuell Sherman. In behalf of orselfes & all others or relations being intrested in a parcell of land lying att or near ye place . . . runs into Potatuck River . . . Indian witnesses; Ockenoch, Instockumm, Wapsuamumm, Chakins. Source: Stratford Land Records (MSS), Volume 1, page 384. Recorded 29 November 1680.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 205. Document 5. April 26: 1673. Deed in Woodbury area. Records of the first purchase from the Pootatucks lost; referred to in five later deeds and called the Pomperaug, or first Purchase; four miles north and south, about two miles east and west, on both sides of the river and

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comprehending the town of Wodbury . . . actually about nine miles in length. Description from Woodbury Land Records, Book II, p. 137. South: Cothren (1871:22-23).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 205-206. Document 6. June 5, 1673. Deed in the Seymour-Shelton area. All my island in the Great River called Pootatuck . . . Chushamack, Sachem, his mark; Ponumskut his mark; Robbin his mark; Pawanet his mark; Amonequon his mark; Chawbrook his mark; Kehow his mark. Source: Orcutt & Beardsley 1880:39; Wojciechowski concludes that it was farther north than Orcutt & Beardsley supposed, nearer to the mouth of Four Mile River.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 206-207. Document 7. July 14, 1673: Woodbury deed. Yohcomge and Avomockomge, witness Kenonge, Wecupmee. Source: Cothren 1871:23-24. "this grant seems never to have been regarded by the Pootatucks, or the settlers, as the tract conveyed was twice repurchased afterwards," (Wojciechowski 1992, 206).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 207-208. Document 8. April 16, 1679. Woodbury deed. Repurchase of Kettletown. Cheabrooke, an Indian, together with the consent and approvation of Coshusheougemy Sachem, the sagamore of puttatuck: plus more territory. Source: Cothren 1871:24-25. Irregular deed; repurchase see Document 16.

Connecticut Colony Records (1850-1890), volume 3 (1859:102), May 1682, difference between the Indians of Potatuck &c. and Woodbury men, in regard to purchases not satisfying to the Indians. Appoint of committee to investigate and make report.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 208-209. Document 9. July 10, 1682. Woodbury deed. Another iredular deed from Wesuncks and Wonnokekunkbom. Source; Cothren 1871:25.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 209-210. Document 10. March 17, 1685/86. Woodbury deed. Shepaug purchase, comprising 2/3 of the present town of Roxbury and part of Southbury. Waramaukeag his mark; Womoqui his mark; Keshooshamaug his mark; Chuhabaux his mark; Youngamous his mark; Nuccaddamo his mark; Papenau his mark; Nemoumbam his mark; Poquano his mark; Punnahun interpreter. Woodbury Land Records, vol. 2, p. 136. Source: Cothren 1871:25-26. "On this deed the names of several Weantinock Indians (such as Waramaukeag and Poquanow) are found as signers (and not ony as witnesses), thus indicating that this tract was located near or on the boundary of Potatuck and Weantinock territory" (Wojciechowski 1992, 210).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 210-211. Document 11. August 6, 1687. Derby deed. Between: Cockapotouce, John Bankes, Jack Chebrook, Stasteckam, Sunkaquene, Meshilling, Tackamore, Pusseks, & Mamosen; Cockapotane,

Wamunka, Wecalope: Indians proprietars of Wesquantack & puttatuck & of the Land in the great Neck at Derby . . . all this above mentioned land the above said cockapotouce John Bankes &c Indians . . . cockapotouce his mark; John Bakes his mark; Jack his mark; on other side: Cockapotany his mark; meshiling his mark; Stastockham his mark; Sunkaquene his mark; Pusseckes his mark; Nanawag his mark; tackamore his mark; Chebrook his mark; Wanxacun his mark; Wetupaco his mar; Witness Nanoques his mark, Curer. Entered 12 Mrch 1708/9. Source: Derby Town Records (1901:428-430). Signed by both Potatuck and Paugussett Indians. The area sold covered "Quaker farms and Rockhouse Hill region" (Campbell, Sharpe & Bassett 1902:10) in the present town of Oxford, New Haven County.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 212. Document 12. October 30, 1687: Woodbury deed. The Third, or Quassapaug Purchase, comprising a part of Woodbury, Middlebury and Southbury; signed by: Chevoramauge his marke; Kesoshamaug Sagamore his marke; Punhone his marke; Youngstockuym his marke; Nunawauk his marke; Wonokequambomb his marke; Cohees his marke; Tantamoho his marke Indian witnesses. Exactly recorded from the original 29 May 1699; Woodbury land Records, vol. 2, p. 137. Source: Cothren 1871:26-27.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 213-214. Document 13. August 15, 1698: Derby deed. We Neighbour Rutt cockapaton Sachem Nonnawauk Gyousoon Keuxon Raretoon Tazchun Corroon Rashkannoot proprietores of Weescantooock . . . signed Neighbor Rutt his mark; Cockapatouch his mark; Nonnawauk his mark; Gyouson his mark; Keuxon his mark; Raretoon his mark; Tazchun his mark; Rash koinoot his mark; Thomas seet his mark; wit: Mawquash his mark; Cheshconeeg his mark. True copy entered 19 March 1700 lea 1701; Derby Town Records, 1901:319-320. "The August 6, 1687, Derby Deed (See Appendix C, Document 11) covered almost the same area. However, the 1687 was signed by Paugussett as well as Potatuck Indians. The Indian signatories of the present 1698 deed are all Potatuck Indians, suggesting that the Potatuck Indians were the proprietors of (most of) this tract" (Wojciechowski 1992, 214).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 214-215. Document 14. May 18, 1700. Woodbury deed. Fourth or Nonnewaug purchase. About six square miles, on East Sprain stream; signed by: Wombummaug his mark, Nucquollozomaug his mark, Wombummaug his squaw her marke, Mashagasse his mark, Wunnuntcone his mark, Cakapattanees Sonn his marke, Umbouge his marke, Jon Banks his marke, Momanchewaug his marke alias Cush, Seawweag his marke, Nunnawake his marke, in ye behalf of himself and all Potatuck Indians confirming this Bill of sale. Recorded 16 May 1701; Woodbury Town Records, vol. 2, p. 137; Source: Cothren 1871:27-28.

List of the Numbr & Names of the Indians belonging to, or residing in ye Countys of New Haven & Fayrefield: Taken the 28th & 30th of August a d 1703 By John Minor (FAIR CT-V007-D051; SN-V070-D0160) Potatuck Indians
Tummasett

Nunnawacke
Wahmasunkoo
Youhyowhy
Chesquaneag
Mawquash
Wawwequi
Nebowweh
Towwewageags
Naquttunggi
Towheag
Wussebunkeommun
Wussuggunnunk queen
Maonnuppowrett
Airechuwassuck
Cokesooraw
Cookepaddawash
Appoonee
Att h

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 215-217. Document 15. July 25, 1705: Newtown deed. We Mauquash, Massumpus and Nunawauk all belonging to Potatuck . . . Moreover we Watchunaman, Waowatus Martezuck Awashkerum Annumetae Mattoucksqua Gonnehampiska Womperowask Munapask Punnanta Wannomo Mesuncksco Taroask Merdmoe Sukanunque Sussoujo: we and every one of us doe for ourselves and eich of us by our selves do freely give grant and of our owne voluntary minde resigne . . . Indian witness, Siacus. Acknowledged by Nunnawoke, Mauquash and Massumpus 12 September 1705. Source: Connecticut Archives. Towns and Lands, Series I, Volume 3, pp. 63-64. "DeForest (1852-351-352) incorrectly gives 1728 as the year of the execution of this deed and proclaims this deed to have been the first one given by the Potatuck Indians to the colonists . . ." with further discussion . . . "An abstract of the deed is also contained in Orcutt (1886:35-36), but his list of signatories is at odds with the original" (Wojciechowski 1992, 217).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 218. Document 16. October 25, 1705: Woodbury purchase. Third version of the Kettletown purchase. Indians: Tomsett marke, Chyiondge his marke, Cotsure his marke, Wampumbom; W. Land Records, vol. 2, p. 137. Source: Caothren 1871:28-29.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 218-220. Document 17. May 28, 1706: Woodbury deed. We hereunto subscribing, being ye proprietors . . . being and belonging to potatuck . . . confirm prior deeds, particularly the mile square by Keesooshamaug to Mr. Hawly, Souwenys sale, and Chuhees, Matehack, Wonnekequumbom and Wesuncko; . . . Nunnawauke his marke, Tumasett his mark, Chesquaneag his mark, Mauquash his mark, Wussebucome his mark, Accommy his mark, Wirasquancot his mark, Wussockanunckqucen

his mark, Kehore his mark; Noegoshemy his mark; Munmenepoosqua her marke; Muttanumace her mark. W. T. R., vol. 3, p. 138. Source: Cothren 1871:29-30. This still retained the Pootatuck Reservation.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 221. Document 18. June 18, 1707. Deed in the Derby area. Cockapetouch Chops, Rawneton, Indians belonging to Potatuck, yet having a certain swamp in Derby bounds called Squantick swamp which we gave about fourteen years ago to our friend Tobie and upon the consideration of friendship, & have with other Indians as Keuckson, & John Banks, laid out said swamp to Tobie & renewed the bounds lately, . . . we do freely give, grant & confirm unto the said Tobie, an Indian that lives with the English, brought up by Mayor Johnson, from a boy . . . Cockapatows his mark, Chops his mark, Rawneton his mark; Witness Mashekes his mark, weroces, his mark. Source: Orcutt & Beardsley (1880:96).

In 1707 an epidemic struck both the Weantinock and Potatuck Indians (Connecticut Colony Records 1850-1890, 5:15; Orcutt & Beardsley 1880:lxviii-lxix) (Wojciechowski 1992, 89).

The Potatucks were said to number in 1710 fifty warriors (Stiles' Itineraries), but this estimate, being made more than half a century subsequent to that date, is very uncertain and probably altogether too large. President Stiles gives it as his opinion that they were at this time subject to Weramaug, a considerable sachem who lived on the Housatonic within the township of New Milford (DeForest 1852, 352).

"At Poodatook by the river against Newtown, I have been lately informed by some Newtown people, when Newtown was first settled, a little above 50 years ago, there were reckoned of that tribe 50 fighting men; but now only one man among the broken remains of 2 or 3 families. Birdsey to Stiles 3 September 1761, MHSC 1809, 10:112.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 221-222. Document 19. June 23, 1710: Woodbury deed. In 1703 the General Court granted Woodbury an addition to their township. They commenced negotiations for purchase with the Indians; obtained the deed June 23, 1710, executed by Nunawague, Chesguneage, Cockshury, Wussuttanunckquet and Sasaw, by estimation 7 or 8 miles east and west and about 5 or 6 miles north or south; bounded east on Waterbury, south on the original town of Woodbury, west on New Milford alias Oantanuck; and northerly as yet on our own land. Woodbury Town Records, vol. 2, p. 179. Source: Cothren 1871:56-57. Covered "practically all of the Bethlehem and the Judea portion of what is now the town of Washington."

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 221-222. Document 20. January 31, 1710/11: Derby deed. All of us Indians, native proprietors of the lands in Derby . . . remise, release, and quit claim . . . all the rights and title we have . . . in any of the lands within the bounds of Derby, excepting such small piece or pieces that we have by expression in particular deeds before reserved for our own use as may be seen by the records of

Derby. Nanawaug his mark; Jack his mark, Charles his mark, Tackamore his mark, Meskilling his mark, Mackwash his mark, Durgen his mark, Ackcutrout his mark; Indian Witnesses, Curen's his mark, Wattakis his mark. Source: Orcutt & Beardsley (1880:120).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, p. 222-223. Document 21. February 1, 1710/11: Derby deed. We whose names are under written being Indians living near Derby do witness that Sisowecum alias Warouth, Pequet, Will Doctor, Daupauk alias Will Toto, John Toto and Tom Toto are the right owners of all the land in the northern and northward parts of Derby bounds yet unsold . . . Wit: Nanawaug his mark, Jacob his mark, Jack his mark, Skilling his mark, Mockwash his mark, Curen his mark, Watakis his mark, Charles his mark, Chips his mark, Durgen his mark. Source: Orcutt & Beardsley (1880:120). "Through this deed the Potatuck Indians (Nanawag et al.) acknowledge that the Paugussett Indians (Siowecum et al.) are the owners of the remaining unsold Indian lands in the (then) Derby area" (Wojciechowski 1992, 223).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 223-225. Document 22. March 2, 1715/16: Deed in the Litchfield area. We Chusquannoag, Corkscrew, Quiump, Magnash, Kehow, Sepunkum, Poni, Wonposet, Suckquunkqueen, Towecume, Mansumpansh, Norknotonckquy - Indian natives belonging to the plantation of Potatuck . . . marks Chusquannoag Corkscrew, Quiump, Magnash, Kehow, Sepunkum, Poni, Wonposet, Suckquunockqueen, Taweeume, Mansumpansh; Witnesses; Weroamaug, Wognacug, Tonhocks. Personally acknowledged in Woodbury. Source: Woodruff 1845:13-15. Reprinted in Kilbourne (1859:21-22) in a less complete form; abstract in Orcutt & Beardsley (1880:xxxvi-xxxvii); further discussion, covered about 44,800 acres in the original township of Bantam or Litchfield. Most northerly tract sold by the Potatuck Indians.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 225-226. Document 23. August 7, 1723: Newtown deed. I, Quiomph, an Indian of Pootatuck, do declare myself ye sole heir of all land that is not purchased by ye English before this date in y boundaries of Newtown, in ye County of Fairfield . . . except a corner of intervale land lying by ye river where Cock shures fence is bounded easterly by ye river . . . Indian witnesses: Mauchoro, Wahuncop, Machocomp, Mausumpus. Source: Johnson 1917:15. Background information Boyle 1945:viii, 9; Johnson 1917:14-17; incomplete abstract 1886:36. "The Potatuck Indians sold Cocksure's Field of 6 acres, which they had reserved for themselves in the above deed, to Peter Hubbell of Newtown in 1730. This deed was recorded in the Newtown Land Records, volume 3-4, page 45 (Boyle 1945:9)" (Wojciechowski 1992, 226).

In August 1725, they planned with the Weantinock for armed resistance to encroachments by the colonists, which was reported to the General Assembly (Connecticut Colony Records 1850-1890, 6:551); they were placed under "strict supervision of white overseers" (Indian Papers, Series 1, Volume 1, Doc. 117-120) (Wojciechowski 1992, 89).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 226-227. Document 24. March 6, 1728/29: Woodbury deed. Conveyance executed by Manquash, Cocksure and Conkarum; in the presence of Chob, John Chob, Passacoran. Source: Cothren 1871:31. Part of the reservation established in Appendix C, Document 17, 28 May 1706. Orcutt 1882a:24 was based on Cothren only.

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 227-228. Document 23 [sic - should be Document 25]. June 18, 1733: Woodbury deed. Indians conveyed to a committee of the town; two sales; both conveyances signed by Quiump, Cockshure, Maucheere, and Naucathora; after these sales, there was left to the Indians only a remnant at the southeast corner of their reservation; last remaining village called the Pootatuck Wigwams; retained title until 1758; then sold that. Source: Cothren 1871:31.

"In 1733, the year that the Pootatuck parted with one-half of their reservation, they were visited by a Missionary, the Rev. J. Beach, who wrote in his report to the Society for the Propagation of the Gospel: '... these Indians are a very jealous people, and particularly suspicious of being cheated out of their land by the English (the English having got most of it already)' (Beach, in Pascoe 1901:46-47). The Potatuck Indians were convinced that Beach 'would in time get their land from them', and the Reverend had to run for his life after an unsuccessful effort to preach the gospel in Potatuck! (Ibid)" (Wojciechowski 1992, 228).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 228-229. Document 26. July 31, 1733: New Milford Deed. Cockshure's deed. I Cockshure, Indian of an Indian plantation within the township [sic] of Woodbury in the county of Fairfield to Stephen Hawley. Source: Orcutt (1882b:105). Last deed of the Indians to New Milford. "The area covered by this deed now embraces the southeastern extremity of present-day Bridgewater" (Wojciechowski 1992, 229). See also data in Hawley 1929:13, 406; Trumbull 1881:79.

"In 1733 the Pootatucks sold about three-fourths of their "reservation" in the south-west part of the present town of Southbury [Litchfield Co., CT], and the larger portion removed to New Milford, and joined the other clan of their tribe residing there. Stragglers from other clans in Fairfield county also joined them" (no citation, probably from William Cothen, *The History of Ancient Woodbury*).

See listing of the Principal Pootatucks (*History of Ancient Woodbury*, 94-95).

"A clan of the Potatucks resided alternately at Bethlehem, Litchfield, and Nonawaug, and have been sometimes designated as Bantam Indians" (Orcutt 1882, 51). See also 1732 deed from John Catlin to "a certain Indian resident of Litchfield, commonly known as Hatchatousset, one acre more or less of land in the crotch of Bantam River (Orcutt 1882, 52).

"Another large village at Pootatuck near New Milford and Newtown, Connecticut, received an influx of Mohicans in 1735 when a Mohican band from New Preston, Connecticut, broke up after

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the death of a chief" (Will Alperon, *Indians, Sources, Critics*, p. 29; hand-identified as James Fenimore Cooper *His Country and his Art* #5 N.Y. College Oneonta and Cooperstown; no citation to source; Schaghticoke Pet., Hist. Docs. I/5).¹⁰⁹

In 1742, the Potatucks united with the Indians of New Milford in a petition to the Legislature for a school and a preacher; marks of Mowehu, Cheery and nine other Indians; states the number of the Potatucks at forty and that of the New Milford Indians at thirty, individuals (DeForest 1852, 353).

Wojciechowski 1992. Appendix C: Annotated Documents Relating to the Potatuck, pp. 229-230. Document 27. August 4, 1742: Derby deed. We Manchero and John Cockshure and Hannah Tous, .. do sell .. to James Hard, one small island of land, lying in Powtatuck river, being in quantity about eight acres. Source: Orcutt & Beardsley 1880:140-141.

Conversion of the Potatuck to the Moravian form of Christianity, 1740's and 1750's (Wojciechowski 1992, 80; citing Loskiel 1794, 38:43, 50-51).

"In 1758 and 1759 the Potatuck lost the last remaining portions of their reservation and removed to Schaghticoke (Cothren 1871:107-108, 147; Cothren 1872:882), the refuge of the Weantinock Indians who, themselves, had migrated under white pressure from the New Milford area westward, to Schaghticoke, in 1736 (see Appendix D, doc. 12, this volume)" (Wojciechowski 1992, 228). See also Wojciechowski 1992, 80.

Connecticut State Library Microfilm #1981, Woodbury, Ct.

Register of Deeds, Vol. 12 1851-1760. p. 118a

May 16, 1758

"...We Thomas Sherman and Jeremiah Cockshaw /and inserted/ Saml Cockchaw Indians of Pootituck in Woodbury in ye county of Litchfield and Colony of Connecticut...Set our hands and Seals...

Tom Sherman
Jeremiah Cockshaw
Samuel Cockshaw"

In the Presents of

Ebenezer Down

Gideon Mayeyou

John Harry (Indian ?)

Recieved and recorded March 27, 1759.

In 1761, the Potatucks were found to consist of one man and two or three broken families (DeForest 1852, 354; citing Letter of Rev. N. Birdsey to President Stiles, dated September 3d, 1761).

¹⁰⁹This appears to refer to the death of Weramaug, who was Weantinock. No clue why he calls it Mohican, since there certainly weren't any Mohican in Preston (New London County), Connecticut.

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"At Poodatook by the river against Newtown, I have been lately informed by some Newtown people, when Newtown was first settled, a little above 50 years ago, there were reckoned of that tribe 50 fighting men; but now only one man among the broken remains of 2 or 3 families (Birdsey to Stiles 3 September 1761, MHSC 1809, 10:112).

In 1774, the Newtown Indians were reduced to two (DeForest 1852, 354; citing Mass. Hist. Coll., Vol. X, p. 118). There were 9 Indians in Woodbury and 7 in Litchfield (DeForest 1852:417).

Appendix III

Other Issues Raised in STN's "Genealogical Discussion and Errata"

The STN petitioner submitted a volume of "Genealogical Discussion and Errata . . ." compiled by Kate April and Linda M. Gray as part of its response to the PF (STN Genealogical Discussion, 8/8/2003). The first section is a narrative presenting the petitioner's analysis of the kinship ties of Nancy M. Kelly Kilson, corrections and comments on statements in the PF broken down by 18th, 19th, and 20th centuries, comments regarding the census, a summary, and a bibliography. The rest of the volume is a compilation of photocopies of documents cited in the report, including clearer copies of some documents that were cited in the PF as being illegible or incomplete.

The STN identified the page [and footnote] in the STN PF where it had a comment that disagreed with, or in some cases concurred with the analysis and conclusions in the STN PF, and provided additional comment and analysis in the response. However, as the STN itself noted in the narrative, much of the discussion is academic and has little to do with the STN meeting the criteria under 83.7. Therefore, this FD will not respond individually to each of the errata, except where it corrects a misstatement either in the STN PF or in the petitioner's errata. STN's issues and arguments that relate to a particular criterion are addressed in the appropriate section of the FD.

Issues identified by the STN as "18th Century Errata"

David Warup/Chicken Warrups

The STN stated that "BAR apparently accepted David (304) Warup as Chicken Warrups/Wallops, (d. 1763 via CT records), but STN's pedigree does not concur on this point" (STN Genealogical Discussion, 18). This is a misreading of the STN PF which stated:

"David Warup" who appears in the Moravian documents,[n48] and whom, according to the petitioner's researcher (April 1997, 85), [n49] they mention as having died at Redding in 1763 (Lavin 1997, 44), was apparently the Chickens Warrups who signed deeds with the "double W" mark. He was still alive, but ill, in 1762.[n50] Connecticut records confirm that Chickens Warrups (or Warrups Chickens) died at Redding in 1763, but do not provide a connection to the Moravian David Warup:

* * *

The petitioner may be able to confirm the identification of David Warup as Chickens Warrups by submitting additional references from the Moravian records (STN PF 2002, 49). [Emphasis added.]

The full text of the footnotes cited in the above quotation reads:

N48: Moravian Catalogus [*sic*]: #304, David sonst Warup der Rebecca (280 Man, Womp., 20 Jul 1751, Pachgatg. Pezold. The Moravian catalog for Pachgatgoch dated March 1755 indicated that David and Rebecca had five children. This was listed below the “Unbaptized children,” but it is not clear whether this was a count of unbaptized children of the parents only.

N49: Warrups apparently returned to Reading, where he died. John Read, who paid for his medical assistance during Warrups’ illness, petitioned the Assembly to sell a portion of the Warrups farm at Schaghticoke to reimburse him. The General Assembly appointed lawyer Ephraim Hubbel authority to sell as much of Warrups’ land necessary to cover the debt (Connecticut, State of, General Assembly 1877-1967 [PRC 1881:215 [October 1763]])” (Lavin 1997, 44).

N50: May 1762. Warrups’ petition to sell 30 acres to Isaac Bull stated he was aged, infirm and indigent and that the land was rough, swampy and unprofitable. The General Assembly passed a resolution approving the sale and requested overseer Jabez Swift to direct the transaction (CT Towns and Lands, Series 1, 8:216; Lavin 1997, 43 citing Connecticut, State of, Archives 1647-1789, [1:101]; see also CT IP Series 1:127).

May 11, 1762. Chickens Wallops (Warrups) one of the Indians called Scaticooks. Petition of Chickens Wallops (often Wallops Chickens) to the General Assembly for permission to sell a piece of land he owns (CT IP Series I, 126a).

The PF noted that David Warup’s death notice was not located by BIA researchers in any version of the Moravian catalogs submitted, but recommended that a search of the Fliegel translation (or the original Moravian records) might confirm that David Warup who died in 1763 (Moravian #304, and had several aliases, including Chicken Warrups (see FAIR/Individuals/Warup,David/Alias for a list) and Chickens Warrups who died in 1763 were the same individual (STN PF 2003, 51, n51).

The OFA agrees with the STN that the Chicken Benjamin Warrups, aka, Warrups Chickens, etc. was not the same as David Warup. It appears that Chicken Benjamin Warrups was one of the many names for Johannes Warup [Warrups] (Moravian #386, aka Benjamin Chickens, etc. and see FAIR database for additional aliases) who was the son of David (#304) and Rebecca. It appears that it was this man, Johannes, who was most likely the Benjamin Chickens or Chicken Warrups, who died in 1777 (STN PF 2003, 50). It appears that there were two men who were both called “Chicken Warrups,” one who died in 1763 and one who died in 1777.

Daniel and Jemima (Mymy) Sutnux/Suckernuck

The STN claims that the PF attributed a husband and wife relationship between Daniel and Jemima (Mymy) Sutnux/Suckernuck (PF Discussion 73, n102), but that the STN’s genealogy program clearly showed that STN identified them as mother and son (STN Genealogical Discussion, 20). It

is true that the petitioner's genealogy program showed Jemima and Daniel as mother and son; however, one of the petition reports stated that they were husband and wife and used that relationship as evidence of marriage within the Schaghticoke community (Lavin 1997, 56). This error in the relationship was noted in the PF: ". . . Daniel Suckernuck, also (with Jemima Suckernuck, who was too old to have been his wife as asserted by the petitioner), was one of the former owners of land at Derby" (STN PF 2003, 73). The OFA agrees that it is more likely that Jemima and Daniel Suckernuck were mother and son.

Issues identified by The STN as "19th Century Errata"

Abigail Mauwee Harris and Henry (Stephen Tuncas) Harris

The STN cited to a discussion in the PF concerning the origins of Henry Harris (STN PF Discussion, 97-98, 197) and included speculation concerning the different names attributed to Abigail Mauwee and Henry Harris, the parents of James Henry Harris (STN Genealogical Discussion, 21-22). The STN now states: "There is no settled opinion about Henry Harris aka Stephen Toncas/Taukis ancestors, [sic] but many have speculated about the use of Pann, Pannee as one of Henry's parents. For the record these conjectures are offered here" (STN Genealogical Discussion, 22).

The STN speculates that the words "panniken" [small tin cup] and "pannier" [large basket or basket maker] may have been the reason that the surname Pann or nickname "Tin Pan" was attributed to Henry and James Henry Harris, who were both known basket makers. The STN report also stated that there was no primary evidence to show that Pann was a family name for either Henry Harris or James H. Harris.

This argument does not add to the STN PF's finding that

The 1876 petition was the first which contained the name of Henry Harris (Henry Pan Harris, Tin Pan), husband of Abigail Mauwee, although his connection to the Schaghticoke was of much longer standing (their son James Henry Harris a.k.a. Jim Pan Harris had been born about 1849/1850). Harris was Indian, although his exact tribal background has not been determined (STN PF 2002, 97).

The PF included several references in the Connecticut records that identified "Pann" as a surname for some of the Indians in Connecticut: Orcutt 1882, 201; DeForest 1852, 357; Orcutt and Beardsley 1880, iv; and the transcriptions of the Moravian records that mention "Penni" and "Pene" as Indian names (STN PF 2003, 97-98, fn. 131, 132). The PF also quoted anthropologist Speck who said that ". . . Harris was a Pan-Pequot, Pequot on his father's side & Pan on his mother's side. The Pans now extinct (cf. Harris) lived at Golden Hill above Bridgeport Conn" (Speck 1903.08.15). The STN does appear to have pursued advice in the PF to investigate records at Roxbury concerning the Tocket, Pene, and Kehore families who were identified in some

of the Church records as Indians (STN PF 2003, 97, n131), but no additional evidence was submitted to clarify Henry Harris' Indian heritage.

Rachel, Parmelia and Abigail Mauwee and Truman Bradley

The STN cited to the PF discussion of the STN constitutional requirement that members had to prove "direct matrilineal or patrilineal descendance from . . . Gideon Mauwee. . ." (STN PF Discussion, 197), but stated that its 1997 and 1998 genealogical reports

never accepted Rachel, Parmelia and Abigail Mauwee as daughters of Eunice and never claimed Truman Bradley was a Mauwee. State genealogical records do though. Citation of chart does not mean evidence accepted, only cited for purposes of analysis (STN Discussion, 23-24).

It is true that the petitioner's genealogical program does not directly link Rachel, Parmelia, and Abigail Mauwee to Eunice Mauwee. The 1852 biographical notice by David Lawrence indicated that Eunice had been married twice and had been the mother of nine children; the children had all died by 1852 and at that time her nearest relations were grand-children (Lawrence 1852). One of the notes for Eunice Mauwee in the petitioner's genealogical database reads: "*NB: There are some inconsistencies in this often quoted notation which may be attributed to D. Lawrence, 1852. Likely grandchildren: Alma, Abigail, Charles, Elihu, Jacob, John, Joseph, Lavinia, Martha, Nancy, Patty, Parmelia, Rachel" [Emphasis added.] (See notes for Eunice Mauwee in FAIR).

Whether the STN accepts the State charts as evidence or not, it is clear from their membership decisions that they accept that Abigail, Rachel, and Parmelia descend from Gideon Mauwee, although perhaps not through Eunice.

There is 19th century data, preceding the State of Connecticut's mid-20th century charts, which tends to show that Rachel (who has no known living descendants) was a granddaughter of Eunice Mauwee. As early as 1859, visitors to the Schaghticoke reservation identified Lavinia Carter (who has no known living descendants) as Eunice's granddaughter (Reichel 1860, 74). A local historian recounted another visit to the reservation that, by internal evidence, must have taken place between 1881 and 1884, during Lavinia Carter's lifetime (the overseer's report quoted would place it after September 1881; the appointment of Martin B. Lane as overseer on Sept. 1, 1884, replacing Henry Roberts, places it prior to that date). It noted; " Her [Vinie/Lavinia's] mother was a white woman. She has a half-sister, Rachel, who sometimes shares her abode and who is full blood" (Todd 1906, 214). This ties Lavinia Carter to Rachel Mauwee; since they had different mothers, the father of these two women must have been a son of Eunice Mauwee. Another early 20th century visitor to the reservation specifically identified Rachel, who was then still alive, as a granddaughter of Eunice: "Before ascending the mountain, the Indian introduced us to Rachel Mahwe, a granddaughter of Eunice Mahwe; . . . Rachel was ninety-three, and, but for deafness and rheumatism, seemed well and vigorous" (Dyer 1903, 213).

By contrast, the 19th century descriptions of the Schaghticoke do not say specifically that Abigail and Rachel were sisters (although they were identified as sisters on later State of Connecticut genealogical charts) nor do they identify Abigail as a granddaughter of Eunice Mauwee. Neither do the earlier narratives indicate what relationship Lavinia Carter and Rachel Mauwee had to Parmelia (Mauwee) Kilson or to Truman Bradley, who was also known as Truman "Mawwee" in overseer Abel Beach's private ledger between 1842 and 1852 (although the later State of Connecticut genealogical charts noted that he was "said to be" a half-brother of Rachel and Abigail).

The PF's "Genealogical Analysis of the Schaghticoke Reservation in 1870" and "Genealogical Analysis of the Schaghticoke Reservation in 1880" has additional evidence and analyses to support the reported connections between Mauwee family members in the mid-1800's (STN PF 2002, 93-96, 100-102), and thus connect them to Eunice Mauwee and her grandfather Gideon Mauwee.

Issues Identified by The STN as "20th Century Errata"

The STN petitioner corrects the identification of a name found on a 1954 record that was cited on page 143 of the PF as: "Leonard Thorpe (unknown)" [i.e. genealogical ties unknown]. The STN petitioner now identifies this individual as "Lenora Cogswell Thorpe." Lenora was one of the daughters of William Truman Cogswell, and a sister of Julia, Theodore William, and Beatrice A. Cogswell (See notes in STN's genealogical database and notes in FAIR).

The STN noted that the PF on page 165 misidentified Howard Harris as "Harold Harris," that on page 171, the PF misspelled Alan Russell's name (typographical error in the PF says "Allen Russell"), and that pages 183-184 of the PF stated that Pauline/Paulette Crone-Morange "does not appear to have any genealogical connections to the other officers and council members" (STN Discussion 26, citing the PF at 183). The STN properly made note of these typographical errors that may have caused some misunderstanding of who was being discussed in the report. The last sentence in the paragraph describing the genealogical connections within the current leadership should read: "Erin Lamb Meeches does not appear to have any genealogical connections to the other officers and council members."

Appendix IV

Connecticut Oversight - Schaghticoke

Summary of Basic Documents

1736 May

This assembly being Informed that a percell of Indians that some time dwelt at new Milford are Removed & Settled on the west side of Housatunnuck River in a Bow on the west side thereof, about three or four miles above New Fairfield, upon a piece of plaine Land there, & have a desire to continue at sd place; whereupon it is resolved by this Assembly that the sd Indians do continue where they are Now Settled during the pleasure of this Court, and no Person shall lay out any Grant or farm on sd plaine piece of land, without the Spetiall leave of this assembly. And it is further hereby enacted and Resolved that whosoever shal contrary to this order Survey or cause to be surveyed or laid out any grant of this Court in ye place aforesd shall not thereby procure any title yrto (Connecticut Archives, Indian papers, series 1, vol. 1, part 2, 170; see also *CT Public Records* 1874a, 38-39).

1752 May 12

Gideon and other Indians; humble petition of sundry Indians inhabitants of Pachgatgoth or Scaticook near Kent; for 18 families have but a small piece fit for planting (description); request for land on the plain (15 signers on the petition). (Mauwee et al. to CT Gen. Ass. 5/12/1752; CT Archives, Indian Papers, series 1, vol. 2, 75-76a).

May 1752. "Upon the memorial of Gideon, an Indian, and several other Indians living on the country lands on the west side of Ousatunuck River, at a place called Scatacook, praying this assembly to grant to them some lands at or near said Scatacook for their improvement and for timer, &c.: Resolved by this Assembly, that the said Indians, the memorialists, shall have the liberty, and they have hereby liberty granted to them, for their improvement and for the cutting of wood and timber for their own use only, the whole of the twenty-fifth lot, as the lots are now laid out, and also the equal half of the twenty-fourth lot on the southward part thereof adjoining to such twenty-fifth lot, and this to be improved by said Indians as aforesaid during the pleasure of this Assembly" (*CT Public Records* 1877a, 108)

1757

In the Lower House upon the above representation Mr. J. [Jabez] Swift is appointed an overSeer of the Scaticook Indians and that a bill in form proper for that purpose be brought in accordingly
/concurrent in Upper House/ (Adams and Sherman to CT Gen. Ass. 5/4/1757; Connecticut Archives Indian series 1, vol. 2, 1647-1789, p.81). Committee Report, dated New Milford.

1767 May 11

Job Mawehu Indian living at a Place Called Scatecook, on behalf of himself and the rest of the Indians in sd. Scaticook, petitions CT General Assembly on 5/11/1767, requests permission on behalf of himself and the rest of the Indians in Sd. Scaticook to sell 150-200 acres of land that was reserved for them in 1752, in order that they may remove to Stockbridge (Mawehu to CT Gen. Ass. 5/11/1767). Recommendation from **Jabez Swift** that it may be in their best interest. Request denied by the CT General Assembly (CT Archives Indian Papers series 1, vol. 2, 200).

1771

1771 October. Schaghticoke's petition CT General Assembly in October, 1771 to have **Elisha Swift** appointed as Overseer due to the death of **Jabez Swift** four years earlier. **Elisha Swift** appointed overseer by Lower House, concurred on by Upper House. Typescript. (CT Archives Indian papers series 1, vol. 2, 201).

1772

October 6. **Elisha Swift** resigns as Schaghticoke overseer (he is removing to the Susquehannah). Connecticut General Assembly appoints **Reuben Swift** as Overseer in October, 1772, in response to petition submitted by tribal members. Typescript. (CT Archives Indian Papers, series 1, vol. 2, 202).

1773

Abraham Fuller appointed Schaghticoke Overseer by the CT General Assembly in October of 1773 following the death of previous overseer **Reuben Swift**. This was a request petitioned for by the tribe (CT *Public Records* 1887a, 196; CT Gen. Ass. to Mawehew and Rodgers 10/1773).¹¹⁰

1801 Oct.

"This Assembly do appoint Mr **Abel Beach** to be Overseer of the Scaticook tribe of Indians during the pleasure of the Assembly" (CT *Public Records* 1965, 315).

1811 May

Upon the memorial of **Abel Beach** of Kent in Litchfield County Overseer of Scatacook tribe of Indians shewing to this Assembly that a certain piece of land being a part of the land formerly sequestered for the use of said Indians, containing about twenty acres and bounded . . . useless to the Indians . . . be sold, monies to be used for the benefit of said Indians . . . Approved by CT General Assembly (page 91a of unidentified document; C:\FAIR\079_Doc_Images\SN\V001\D0106.TIF, apparently CT Archives Indian Papers).

¹¹⁰The tenure of Abraham Fuller as overseer was marked by many petitions, both by Fuller and by the Schaghticoke; complaints; investigations and audits by committees appointed by the General Assembly; land sales approved by the General Assembly; two reallocations to reservation families, reports back, and other actions by the General Assembly, the final large sale and associated documents being in 1800-1801 (see FAIR data base and the STN PF 2002 for details).

1814

Resolved by this Assembly that the overseer of the Scaticook tribe of Indians be and he is hereby appointed guardian to the orphan Children belonging to sd. Tribe of Indians (CT Archives, Indian Papers 97a).

1821

Revision, Title 50, Indians. Sect. 1. Be it enacted by the Senate and House of Representatives, in General Assembly convened, That an overseer shall be appointed to each tribe of Indians living within the limits of the state, by the county court, in the county in which such tribe resides, who shall have the care and management of their lands, and shall see that they are husbanded for the best interest of the Indians, and applied to their use and benefit.

Sect. 2. The overseer of each tribe of Indians shall, annually, state and settle his account of the concerns of such tribe, with the county court, in the county within which such tribe resides; and on failure thereof, or for any neglect of duty, such county court may remove him from office, and appoint another in his place; and said court may, at any time, call such overseer to account (Principal Public Laws n.d., 1).¹¹¹

1846

Report by **Abel Beach**, Conservator of the Scaticook Tribe of Indians "to this court." Financial only; docket entry, no source indicated.

1847 December 27

Docket entry, County Court, Litchfield. Report of **Abel Beach**, Conservator of the Scaticooke Tribe of Indians. Financial only.

1852

Title 36, Article 4426. Sale of Exchange of Indians' land. "The Superior court in any county, except the county of Litchfield, in which an Indian tribe resides, shall have jurisdiction of applications for the sale or exchange of lands or other property belonging to any member of such tribe; and the court of common pleas for Litchfield county shall have jurisdiction of applications for the sale or exchange or lands or other property belonging to any member of a tribe which resides in that county" (p. 1064).

NOTE: Marginal commentary: 1852, 1876, 1883, Rev. 1888, article 29.

1852 October

¹¹¹Until the passage of this law, the annual or biennial audits of the Schaghticoke overseer's accounts were filed with the Connecticut General Assembly. There are only two audits or annual reports in the evidence submitted between 1821 which placed supervisory responsibility with the county courts and the new legislation of 1852 transferring oversight from the county courts to the Court of Common Pleas/Litchfield County Superior Court, but the submissions include the Schaghticoke overseer's own account books for the intervening years.

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Abel Beach resigns as Schaghticoke overseer. **Rufus Fuller** appointed as Schaghticoke overseer (Overseer's Reports on file).

1863 October

Rufus Fuller resigns as Schaghticoke overseer. **Oliver W. Root** appointed Schaghticoke overseer (Overseer's Reports on file).

1865 December

Death of Schaghticoke overseer **Oliver W. Root** (Overseer's report by his executors on file).

1866 January

Appointment of **Anister St. John** as Schaghticoke overseer (Overseer's Reports on file).

1868 October

Anister St. John resigns as Schaghticoke overseer. **William Lewis** appointed Schaghticoke overseer.

1869 October

William Lewis resigns as Schaghticoke overseer. **Lewis Spooner** appointed Schaghticoke overseer (Overseer's Reports on file).

1876 May - June

Public Acts Passed by the General Assembly of the State of Connecticut in the year 1876. Published by Authority (Hartford: The Case, Lockwood & Brainard Co., printers, 1876). [House Bill No. 11.] An Act in Amendment of an Act relating to Indians. Overseer to be appointed for Indians in Litchfield county. "Section 1. An overseer shall be annually appointed to each tribe of Indians, by the district court in the judicial district of Litchfield county, in which such tribe resides, to have the care and management of its lands and money, and to see that they are used for the best interest of the Indians, and that the rents and profits of all such estate are applied to their benefit.

"Sec. 2. Jurisdiction of Litchfield county district court. Said Overseer shall give bonds to the state as is now required by law, and shall annually settle his account of the concerns of such tribe with said district court, and said district court shall hereafter have sole jurisdiction of all matters now exercised by the superior court, as to said overseer of the tribes in said judicial district. Approved, June 7, 1876 (88-89)."

1876 September

Lewis Spooner resigns as Schaghticoke overseer. **Henry Roberts** appointed Schaghticoke overseer (requested by name, 1876 Schaghticoke petition) (Overseer's Reports on file).

1881

State of Connecticut passes Public Act (CH. 62) in 1881 requiring a copy of Overseer's reports for Indian tribes to be filed with the secretary of state, as well as clerk of town in which the tribe resides.

1883

Jurisdiction over Indian Tribes in Litchfield Co. is transferred from Litchfield Superior Court to Litchfield Court of Common Pleas in 1883. Public Acts, Ch. 110 (Principal Public Laws 1941, [3]; Appendix B of unidentified item) (typed summary only).

1884 July

Henry Roberts' last report as Schaghticoke overseer. **Martin B. Lane** appointed Schaghticoke overseer (requested by name, 1884 Schaghticoke petition) (Overseer's reports on file).

1892

Litchfield County Court of Common Pleas orders an audit of the notes held as property by the Schaghticoke tribe (in response to a petition presented by Truman Bradley, member of the tribe, and **Martin Lane**, overseer); the audit is completed and submitted.

1902

At the direction of Judge Gideon Welch of the Litchfield County Court of Common Pleas, the overseer takes a census indicating 126 members of the Schaghticoke tribe.

1903

Petition of New Milford Power Company to acquire land in connection with construction of dam near Bull's Bridge. Action brought against, in part, "land of the Schaghticoke tribe." Does not otherwise mention the Schaghticoke nor identify Lane as the overseer. Also against land of Martin Lane. Damages awarded by appraisal committee of \$2500 (total). (C:\FAIR\079_Doc_Images\SN\V047\D0039.TIF)

1905 ca.

Martin B. Lane died.

1905

6/30/1905 Village and Vicinity. "The court of common pleas will hold a [session?] at the court house in the village on Monday, July 10th at [illegible] A.M. for the purpose of appointing overseer of the Indians in Kent. This action is made necessary by the recent death of **Morton B. Lane** who was overseer for over twenty-[one? illegible] consecutive years. See advertisement for further particulars."¹¹²

¹¹²No copy of the advertisement or legal notice included with the submission.

7/14/05 Village and Vicinity. "At the session of the court of common pleas, Judge Welch, presiding, in this village, Monday, **Frederick Lane** of Bulls Bridge was appointed [to be] overseer of the Indians in Kent, to succeed his father, the late **Martin B. Lane**, who was overseer for over twenty-[one? illegible] consecutive years." (Only one overseer's report on file during his tenure).

1914

1914.01.23, **Fred R. Lane** replaced as Schaghticoke overseer. January 23, 1914.

"Settled in full of All acct and turned over all Money & Notes to Charles Chase appointed in my Place By Gideon T. Welch Judge of Court" (Overseer Ledger 1884-1914, 143) (One Overseer's Report on file). **Charles Chase** is appointed Overseer of the Schaghticoke Tribe (Overseer's Reports on file).

1915-1925

CT General Assembly begins to make appropriations for the Schaghticoke Tribe.¹¹³

1915.05.20 Sum of four hundred dollars is hereby appropriated to be paid to the overseer of the Schaghticoke tribe of Indians and used for the maintenance, support, care, and education of said Indians under the direction of the judge of the court of common pleas for Litchfield county. May 20, 1915 (CT Gen. Ass. 1915).

1915. House Bill No. 335. Entitled "An Act making an Appropriation for the Schaghticoke Tribe of Indians."

1917. House Bill No. 121. Entitled "An Act authorizing an Appropriation for the Schaghticoke Indians."

1918. Special Session. House Bill No. 266. Entitled "An Act making an Appropriation for the Schaghticoke Tribe of Indians," providing for an appropriation of Four Hundred Dollars.

1919. Stenographer's Notes of Public Hearings before the Joint Standing Committee on Appropriations. General Assembly, State of Connecticut, January Session 1919.

"MR. VINCENT of Kent: There is a remnant of a tribe of Indians over at Kent. They are wards of the State to a certain extent. Their funds are at pretty low ebb. They have only

¹¹³For some context as to the beginning of these appropriations, see: Judge John T. Hubbard of Litchfield, "Appeal for the Scatacook Tribe," letter to the Hartford Courant 15/5/1915. There are [now] four or five small houses on the reservation, but these are not all inhabited. "By the statute law the judge of the court of common pleas for Litchfield County appoints an overseer for the Indians. Former Judge Gideon H. Welsh took much interest in the tribe and once went onto the reservation and caused some men who were living there unlawfully to be evicted. The judge had hard work to get a grand juror to take action in the matter as this official claimed the town had no jurisdiction on the reservation. Judge Welsh had a census of the Indians made, and it was found that, counting all, there were 126 members of the tribe in the state, but very few of full blood." Overseer salary is paid from the small and dwindling fund remaining from the sale of lands. Notes that the overseers have only a very small fund with which to care for the poor and improvident of the tribe.

now an income from \$1500. They have foreclosed on some of their lands, probably bad investments. It is administered by an indian [*sic*] agent appointed by the Superior Court of Litchfield County. He makes a report to the Judge. I think four years ago Judge woodruff [*sic*] prepared a bill like this and it was passed two years ago again. We ask that the state make the same appropriation for the coming two years, - \$200. A year. I do not suppose there will be anyone here to oppose it. There are half a dozen houses and some of the remnant of the tribe are there. This keeps them when they are sick. They have a doctor and they give them some supplies and when they die they bury them. I trust you will pass that appropriation. I think it is all right and they need it. There are none of them full blooded or half blooded. They are mixed with whites and negroes. I understand as long as there is any remnant of them there they are entitled to do this. They work around some on farming and some odd jobs.”

SRN. TIFFANY: “Any farms there?” (CT Gen. Ass. Appropriations Hearings 1919, 237).

MR. VINCENT: “ No, just a little tract under the mountain. They have enough to raise potatoes maybe and keep a cow or a pig. The rest of the time they work out. They are not very fond of work. They are not town paupers but really are state paupers. It is \$200. a year” (CT Gen. Ass. Appropriations Hearings 1919, 238).

1921. Special Acts and Resolutions of the State of Connecticut with Appendixes Containing Appropriations and Grants from the Treasury and Executive Appointments. Volume XVIII--Part 2

“SCHATICOLE [*sic*] INDIANS - H.B. 424 (Stone)

Hearing before Committee on Appropriations held February 23, 1921.

Senator Hall presiding.

MR. WADHAUS: That is a bill that provides medical attendance to the tribe in Kent, administered by the Judge of the Court of Common Pleas. They are a remnant of some of the best tribes in Connecticut, landed there many years ago. There is a provision in the law which allows the Court of Common Pleas to provide medical attendance for any who need it.

MR. WADSWORTH: How many are there?

MR. WADHAMS: I don't know. Not very many. I wouldn't want to be questioned too close.

REPRESENTATIVE STONE: We are asking for an appropriation of \$400. That has been allowed for several years, as I understand it. Mr. Eaton is more familiar with it than I am. The overseer of the tribe presented this to me and wanted me to introduce it.

SENATOR HALL: How many left of the tribe?

MR. STONE: I asked that the other day. He said throughout the State probably somewhere near a hundred with some indian [*sic*] blood. They are mostly self-supporting unless they are sick. If they become sick they fall back on this indian [*sic*] reservation and this is to look out for them.

MR. OSBORN: How many on the reservation?

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MR. STONE: I think only three or four. One old man there eighty years old and a younger man nearly seventy. There are several houses, some very comfortable" (CT Gen. Ass. Appropriations Hearings 1921, 230).

1923. Stenographer's Notes of Public Hearings before the Joint Standing Committee on Appropriations. Committee: Senator Ernest E. Rogers, (chm.), New London

"MR. GIDDINGS: One hundred acres more or less on the Western boundaries of Kent on the New York state line.

MR. WILLIAMS: Where did you say it was located ?

MR. GIDDINGS: In the Town of Kent. It is a Schaghticoke Indian Reservation" (CT Gen. Ass. Appropriations Hearings 1923, 104-105).

1923 - 1925. Special Acts of the State of Connecticut with Appendixes Containing A List of Joint Stock Corporations . . . Volume XIX--1923 and 1925.

1925

Oversight of Schaghticoke tribe assigned to the **State Park and Forest Commission** by act of the CT General Assembly, approved 23 June 1925 (SPFC Report 1926, 53).

SPFC Report 1926, p. 24. Schaghticoke Indian Reservation, Kent.

Under Chap. 203, P.A. 1925, the Commission is appointed overseer of "any tribe of Indians in Litchfield County"; which applies so far as known only to the remnant of the Schaghticoke Tribe and its reservation in the town of Kent.

Brief history derived from DeForest 1852:

"The settlement of Kent began in 1738, and titles were granted by the Colony, which however reserved some two thousand acres for use of the Indians, who were treated as squatters, without valid title, but allowed to remain. The first overseer of the tribe was Jabez Smith, appointed by the Colony in 1757." . . . "From the statements of De Forest it would appear that title to the 350 acres remaining is vested in the State, which however for nearly two hundred years has recognized a right of use by the tribe."

"The Schaghticoke Indians have never received the rights of citizenship, except as acquired by the issue of marriage with citizens" (CTSPFC Report 1926, 24).

1927-1928

Schaghticoke Indian Reservation Fund: lists Second year, 1925 appropriation carried forward, additional funds assigned 1926-27 of 500, First Year, appropriation of 1927 (7-1-27--6/30-28) Funds assigned for fiscal period 1927- 1929 \$500. Interest on Conkrite note, 67.50. Schaghticoke Trust Fund, Deposited 1/27 250, plus interest to June 1928.

Expenditures, Second Year, medical attendance 173, household supplies, food, fuel, etc. 331, repairs on buildings and equipment, 65, overseer's salary, two years, 150. similar amounts for first year (CTSPFC Report 1928).

1927.04.11

Arthur P. Parker, Superintendent, State Parks, reports to CTSPFC April 11, 1927.
Schaghticoke Reservation [underlined]

“Howard Harris (half-Indian) made appointment to see me in the Hartford office on Wednesday, March 30th, in regard to his going to live on the reservation in Kent. His sister, Mrs. Ellis, appeared in his place. I am making this statement in detail so that you may be fully informed of conditions in connection with this proposition. This is the second appointment which he has failed to meet in person. The first was arranged for in New Haven, a year ago last January.

The result of talking with Mrs. Ellis has left the matter with the understanding that she may camp on the reservation at any time and also have a garden there. It seems that they go up there on Sundays during the warm season, and sometimes for longer periods. I told her that we would not spend any money on the old Harris houses, but she might repair and fit them up to live in, if she cared to. All the above arrangement is subject to the approval of the Commission” (Parker to CTSPFC 4/11/1927).

1928

Need for repairs on the Earl Kilson house noted (CTSPFC Minutes 9/12/1928).

1930 - 1938

Appropriations for the Schaghticoke Indian Reservation by the CT General Assembly; reports in regard to the Schaghticoke Tribal Fund (CTSPFC *Report*, 1931-1939; C:\FAIR\079_Doc_Images\AC\V003\D0013.TIF).

1932

Death of **Charles Chase**, Schaghticoke overseer, reported in the SPFC minutes.
1932.02.10 Appointment of **John W. Chase** by the SPFC as Schaghticoke overseer.

1933.07.19

CTSPFC Minutes, page 1. Schaghticoke Indians. The Field Secretary read an opinion by First Assistant Attorney-General Johnson, to the effect that the Commission is authorized to pass on questions of eligibility [*sic*] for residence on the Reservation, but if doubtful cases arise, they should be referred to the United States Attorney for the District of Connecticut.

1934.03.11

CTSPFC Minutes, page 1. Schaghticoke Indians. Request from a member of the Harris family, (formerly resident on the reservation) for restoration of the old Harris house for his use. The house is merely a ruin and with no funds available for repair the request could not be granted.

1935

Remainder of Connecticut Tribes placed under the SPFC.

1935.03.13 CTSPFC Minutes, page 1. Schaghticoke Indians. The Field Secretary submitted request from the Highway Commissioner for release of a mortgage on certain land needed for highway purposes. The mortgage was executed in 1846, to the Overseer of the Tribe, with no release on record, and presumably covered more land than the portion now taken for highway. No record of any such mortgage appears in the papers of the tribe received from the former overseer, and the Chair questioned the propriety of executing such partial release as the Highway Commissioner requested. Action was referred to the Chairman, with power.

1935.09.16

CTSPFC Minutes, page 2. Schaghticoke Indians. The Superintendent submitted plans for repairing the old Harris house for use of the Kilson Family, at an estimated cost of \$2,500. No funds being available, it was VOTED, to approve the plans, and request the Board of Finance and Control to add to the existing appropriation as might be required up to the sum added.

1935-1939

CTSPFC Genealogical Charts re: Connecticut Indian tribes prepared (see FAIR data base).

1936

INDIANS, TRIBAL RIGHTS [underlined]

Commissioner Peale submitted lists of names recognized by former overseers as members of the tribes, as follows: . . . Schagh. 10 resident, 2 non resident. Eastern Pequot, 16 resident, 27 non-resident. "These detailed lists re filed with the Commission as of Dec. 1935, and were ADOPTED [caps in original] by vote as comprising all known members of these tribes on that date." "Commissioner Peale also reported on procedure to be followed in adding to these lists, or in granting admission of non-residents to the reservation" substance adopted, final action delayed for redrafting the form (CTSPFC Minutes 2/5/1936).

1936.03.11 Indians. Following Commissioner Peale's report considered at the February meeting, the Secretary submitted a redraft thereof in the form of a general statement of the recognized tribes and a code of procedure in recognizing tribal rights and reservation allotments (Bates No. 2 of 4); duties of CSPFC as overseer;
SCHAGHTICOKES

Land; no map available, estimate of supervisor, 400 a.

Leader; None recognized by tribe.

Members; On the reservation 10

Elsewhere in Connecticut 0 listed

In New York 2 12 (CTSPFC Minutes 3/11/1936, 3).

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Continues with provisions for tribal membership, tenure of land on reservations, admission to reservation, tribal and state funds, procedure in disbursement of state appropriations or tribal funds (CTSPFC Minutes 3/11/1936, 3-4).

1936

CTSPFC made extensive repairs on the old Harris house for the benefit of the Earl Kilson family (CTSPFC Minutes 7/8/1936 and 8/12/1936). 1936.11.18, CTSPFC Minutes, page 3. Schaghticoke Indians. The Treasurer reported that during a session of the General Assembly the Board of Finance and Control could not consider any requests for additional funds, and that repairs to the Harris house for use of the Kilson family could not be undertaken this season.

1937 January 16

CTSPFC Minutes, January 16, 1937. Schaghticoke reservation; approved introduction of bill for \$2000 for repair of buildings and water supply.

1939 January 11

CTSPFC Minutes, 11 January 1939. Schaghticoke Indian Reservation. The Town of Kent desires to widen and improve the town road, taking some additional width and material from the reservation, which the Superintendent considers an improvement. Referred to the Superintendent with power to approve.

1939 December 13

“The Treasurer noted increasing perplexities in performing the duties of overseer, without specific appropriations, and offered the following resolution as an effort toward eventual release:

WHEREAS under Ch. 20e of Public Act of 1925 the SPFC was made overseer of any tribe of Indians residing in Litchfield County, and under Chapter 272 of the Public Acts of 1935 was made overseer of all tribes of Indians residing in the State of Conn. and in the light of experience gained in the performance of such duty it appears to the Commissioners that said duty has no connection with the provision and care of lands for public recreation and forestry purposes and is in fact a problem in human welfare.

NOW, THEREFORE, BE IT RESOLVED, that we, the State Park and Forest Commissioners, respectfully petition the Legislative Council to give this matter due attention, and to recommend to next General Assembly that said duty of overseer be transferred to a more appropriate State agency” (CTSPFC Minutes 12/13/1939).

1941

Oversight of Connecticut Indian Tribes assigned by Act of the General Assembly to the **Department of Welfare**.

1943.07.01

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Transfer of Schaghticoke Fund from CTSPFC 1941 in the amount of \$256.35; final payment on Conkrite Mortgage note; Balance on Hand July 1, 1943, \$1509.41 (CT Office of Commissioner of Welfare 6/30/1943). Schaghticoke Fund July 1, 1941 - June 30, 1943. Annotated "as submitted by Auditors" (C:\FAIR\079_Doc_Images\SN\V012\D0021.TIF, Bates No. 7 of 112).

1956

CT Dept. of Welfare terminated **John W. Chase** as Schaghticoke overseer due to illness and inability to perform his duties; he had been retained as the agent by Mr. Squires (Barrell to Hanas 12/19/1956).

1961

H. B. 2421 defines who has the right to reside on a reservation and defines Indian for the purposes of this act, as a person with one eighth of Indian blood. March 23, 1961

1973

Responsibility for CT Indian tribes transferred to the **Department of Environmental Protection**. Establishment of the **CT Indian Affairs Council**.

1989

Public Law 368, "An Act Implementing the recommendations of the Task Force on Indian Affairs"

Sec. 16, the statute repealed Section 47-59a of the general statutes; it continued the prior language in regard to citizenship (paragraph (a)) and added the following provision:

(b) The State of Connecticut further recognizes that the indigenous tribes, the Schaghticoke, . . . are self-governing entities possessing powers and duties over tribal members and reservations. Such powers and duties include the power to determine tribal membership and residency on reservation land, (2) determine the tribal form of government, (3) regulate trade and commerce on the reservation, (4) make contracts, and (5) determine tribal leadership in accordance with tribal practice and usage (CT Public Law 368, Sec. 16 1989).

Sec. 21. Section 47-60 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any reservation land held in trust by the State on the effective date of this act shall continue to be held in trust in perpetuity to prevent alienation and to insure its availability for future generations of Indians. Except as otherwise expressly provided, all conveyances by any Indian of any land belonging to, or which has belonged to, the estate of any tribe shall be void.

A tribe shall exercise on reservation land all rights incident to ownership except the power of alienation (CT P.A. 89-368 1989).

1995

Official Statement by John G. Rowland, Governor, designating November 1996 as Native American Month in the State of Connecticut continued to use the terminology of the 1989

Schaghticoke Tribal Nation Final Determination: 1/29/2004

Act: “WHEREAS, Connecticut further recognizes that the indigenous tribes, the Schaghticoke, . . . are self governing entities possessing powers and duties over tribal members and reservations;” (Rowland 1996, PEP Response to Comments 9/4/2001, Ex. 57).

Connecticut Oversight 1757-Present

OVERSEER	SERVICE	OVERSIGHT JURISDICTION	STATUTE SPAN
Jabez Swift	1757-1771	CT General Assembly	1751-1821
Elisha Swift	1771-1772	CT General Assembly	1751-1821
Reuben Swift	1772-1773	CT General Assembly	1751-1821
Abraham Fuller	1773-1801	CT General Assembly	1751-1821
Abel Beach	1801-1852	CT General Assembly 1801-1820/Litchfield County Court 1821-1852 (Act of 1821)	1821-1852
Rufus Fuller	1852-1863	Litchfield County Superior Court (Act of 1852)	1852-1876
Oliver W. Root	1863-1865	Litchfield County Superior Court	1852-1876
Anister St. John	1866-1868	Litchfield County Superior Court	1852-1876
William Lewis	1868-1869	Litchfield County Superior Court	1852-1876
Lewis Spooner	1869-1876	Litchfield County Superior Court	1852-1876
Henry Roberts	1876-1884	Litchfield County District Court (Act of 1876)	1876-1883
Martin B. Lane	1884-1905	Litchfield Court of Common Pleas (Act of 1883)	1883-1925
Frederick Lane	1905-1914	Litchfield Court of Common Pleas	1883-1925
Charles Chase	1914-1932	Litchfield Court of Common Pleas/CT State Park and Forest Commission (Act of 1925)	1925-1941
John W. Chase	1932-1956	CT State Park and Forest Commission (1925-1941/CT Department of Welfare (1941-1973) (Act of 1941)	1941-1973
		CT Department of Environmental Protection (1973-) (Act of 1973)	1973-2004



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

FEB 13 2004

Mr. Richard L. Velky
33 Elizabeth Street, 4th Floor
Derby, Connecticut 06518

Dear Mr. Velky:

This letter notifies you of an error in the January 30, 2004, letter from the Office of Federal Acknowledgment concerning the effective date of the Schaghticoke Tribal Nation (Petitioner #79) final determination. The correct date is properly identified in the Federal Register notice published on February 5, 2004, which stated:

This determination is final and will become effective **May 5, 2004**, unless a request for reconsideration is filed before the Interior Board of Appeals (IBIA) pursuant to 25 CFR 83.11 or unless any party or amici in the litigation files for Administrative Procedures Act (APA) review with the district court (FR 69, 5574). [Emphasis added.]

The language in the Federal Register notice is consistent with the regulations, 25 CFR 83.11(a)(2).

Enclosed is a copy of the February 5, 2004, Federal Register notice of the "Final Determination to Acknowledge the Schaghticoke Tribal Nation" and a copy of the complete list of "Interested Parties" that was inadvertently omitted from the January 30, 2004, mailing. Also enclosed are two pages of "Errata" correcting typographical errors and editorial mistakes found in the text of the STN FD and in the Federal Register notice. None of the errors are significant and they do not affect the results of the finding, but are included to help eliminate any confusion that they may have created.

Sincerely,

Director, Office of Federal Acknowledgment

Enclosures

cc: Interested Parties

Schaghticoke Tribal Nation, Petition #79
List of Interested Parties as of 1/30/04

Petitioner and Attorney of Record

Mr. Richard L. Velky

Business address:

33 Elizabeth Street, 4th Floor
Derby, Connecticut 06418

Cell Phone: (203) 910-9700
Phone: (203) 736-0782
Fax: (203) 736-0875

Alternate address:(Use business address)

Schaghticoke Road
P.O. Box 893
Kent, Connecticut 06757

Phone: (860) 927-8050

Attorney on Record:

Ms. Judith A. Shapiro
6556 Eastern Avenue, N.W., Suite 206
Washington, D.C. 20012

Phone: (202) 723-6400
Fax: (202) 291-3107

Co-counsels:

Mr. Eric Weichmann
McCarter English
Cummings and Lockwood
City Place I
185 Asylum Street
Hartford, Connecticut 06103-3495

Phone: (860) 275-6700
Fax: (860) 724-3397

Mr. Thomas W. VanLenten
Pinney, Payne, VanLenten,
Burrell, Wolfe & Dillman, PC
83 Wooster Heights
P.O. Box 3499
Danbury, Connecticut 06810-3499

Phone: (203) 830-6335
Fax: (203) 792-4759

Mr. Jerry Strauss
Hobbs, Strauss, Dean & Walker
2120 L Street, N.W.
Washington, D.C. 20037

Phone: (202) 822-8282
Fax: (202) 296-8834

Interested Parties and Attorneys of Record

State of Connecticut:

Governor John G. Rowland
Governor's Office, State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106

Phone: (860) 566-4840
Fax: (860) 524-7396

Attorney General:

Mr. Richard Blumenthal
Attorney General
55 Elm Street
Hartford, Connecticut 06141-0120

Phone: (860) 808-5318
Fax: (860) 808-5347

Assistant Attorneys General:

Ms. Susan Quinn Cobb
Mr. Mark Kohler
Office of the Attorney General
55 Elm Street
Hartford, Connecticut 06141

Phone: (860) 808-5318
Fax: (860) 808-5347

Town of Bethel:

Ms. Alice Hutchinson, First Selectman
Town of Bethel
Bethel Municipal Center
1 School Street
Bethel, Connecticut 06801

Phone: (203) 794-8501
Fax: (203) 794-8552

Truman and Theodore Coggsell

Mr. Truman H. Coggsell, Sr., et al
419 King Street, P.O. Box 56
Frankford, Missouri 63441

Phone: (573) 784-2589
Fax: (573) 784-2364

Attorney of Record for Coggsell, Sr., et al

Mr. Philip G. Smith
Smith and McGuire
413 Georgia Street
P.O. Box 486
Louisiana, Missouri 63353

Phone: (573) 754-6237
Fax: (573) 754-4014

Town of Cornwall:

Mr. Joyce Hard, First Selectman

Attorney on Record for Town of Cornwall

Mr. Perley H. Grimes, Jr.
Cramer and Anderson
46 West Street
Litchfield, Connecticut 06759-0278

Phone: (860) 567-8717
Fax: (860) 567-4531

City of Danbury:

Mr. Mark D. Boughton, Mayor
City of Danbury
155 Deer Hill Avenue
Danbury, Connecticut 06810

Phone: (203) 797-4511
Fax: (203) 796-1666

Town of Easton

Mr. William Kupinse, Jr.
225 Center Road
P.O. Box 61
Easton, Connecticut 06612

Phone: (203) 268-6291
Fax: (203) 268-4928

Town of Greenwich

Ms. Aamina Almad
Town Attorney
101 Field Point Road
P.O. Box 2540
Greenwich, Connecticut 06836

Phone: (203) 622-7876
Fax: (203) 622-3816

Housatonic Valley Council of Elected Officials:

Mr. Jonathan Chew, Executive Director
Housatonic Valley Council of Elected Officials
Old Town Hall, Routes 25 & 133
Brookfield, Connecticut 06804

Phone: (203) 775-6256
Fax: (203) 740-9167

Town of Kent:

Ms. Dolores R. Schiesel
First Selectman
Town of Kent, Kent Town Hall
41 Kent Green Blvd.
P.O. Box 678
Kent, Connecticut 06757-0678

Phone: (860) 927-4627
Fax: (860) 927-4474

Attorney of Record for the Town of Kent

Mr. Jeffrey Sienkiewicz
Sienkiewicz & McKenna, P.C.
9 South Main Street, P.O. Box 786
New Milford, Connecticut 06776

Phone: (860) 354-1583
Fax: (860) 355-4439

Kent School:

Attorney on Record for Kent School

Mr. Donald C. Baur
Perkins Coie, LLP
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

Phone: (202) 434-1690(1621)
Fax: (202) 434-1690

Mr. David J. Elliott
Day, Berry & Howard
City Place I
Hartford, Connecticut 06103-3499

Phone: (860) 275-0196
Fax: (860) 275-0343

Town of New Fairfield:
Ms. Peggy Katkocin, First Selectman
Town of New Fairfield
Town Hall
4 Brush Hill Road
New Fairfield, Connecticut 06812

Phone: (203) 312-5600
Fax: (203) 312-5610

Town of New Canaan:
Attorney on Record for Town of New Canaan
Mr. Christopher J. Jarboe
Lovejoy and Rimer, P.C.
65 East Avenue
P.O. Box 390
Norwalk, Connecticut 06852-0390

Phone: (203) 853-4400
Fax: (203) 866-3386

Town of New Milford:
Mr. Thomas Beecher
Collins, Hannafin, Garamella, Jaber & Tuozzolo
148 Deer Hill Avenue
Danbury, Connecticut 06813-0440

Phone: (860) 355-2631
Fax: (860) 355-9460

Attorney on Record for Town of New Milford
Mr. D. Randall DiBella
Cramer & Anderson
51 Main Street
New Milford, Connecticut 06776

Phone: (860) 355-2631
Fax: (860) 355-9460

Town of Newtown:
Mr. Herbert C. Rosenthal, First Selectman
Town of Newtown
Town Hall
45 Main Street
Newtown, Connecticut 06470

Phone: (203) 270-4201
Fax: (203) 270-4205

Town of Norwalk
Mr. Alex Knopp
City of Norwalk
125 East Avenue, P.O. Box 798
Norwalk, Connecticut 06851

Phone: (203) 854-7701
Fax: (203) 854-7939

Preston Mountain Club

Attorneys for Preston Mountain Club

Mr. James R. Fogarty
Mr. Leland C. Selby
Fogarty, Cohen, Selby & Nemiroff, LLC
88 Field Point Road
P.O. Box 2508
Greenwich, Connecticut 06386-2508

Phone: (203) 661-1000
Fax: (203) 629-7300

Town of Ridgefield:

Mr. Rudy Marconi, First Selectman
Town of Ridgefield
Town Hall
400 Main Street
Ridgefield, Connecticut 06877

Phone: (203) 431-2700
Fax: ((203) 431-2311

[Schaghticoke Indian Tribe group] Petition #239:

Mr. Alan Russell
322 Schaghticoke Road, P.O. Box 111
Kent, Connecticut 06757

Phone: (860) 927-3282
Fax: (860) 927-3659

Attorney of Record for Mr. Alan Russell, et. al.

[Schaghticoke Indian Tribe group] Pctition #239:

Mr. Michael J. Burns
57 Pratt Street, Suite 604
Hartford, CT 06103

Phone: (860) 246-6400
Fax: (860) 687-1833

Town of Sherman:

Attorney on Record for Town of Sherman

Mr. D. Randall DiBella
Cramer and Anderson
51 Main Street
New Milford, Connecticut 06776

Phone: (860) 355-2631
Fax: (860) 355-9460

Town of Stamford

Mr. Benjamin Barnes
888 Washington Boulevard
P.O. Box 10152
Stamford, Connecticut 06904-2152

Phone: (203) 977-5919
Fax: (203) 977-5845

Town of Westport

Ms. Diane Ferrell
Office of the Town Attorney
Town Hall
110 Myrtle Avenue
Westport, Connecticut 06880

Phone: (203) 341-1040
Fax: (203) 341-1038

Town of Wilton

Ms. Patricia C. Sullivan
Associate Town Counsel
1115 Broad Street
P.O. Box 1821
Bridgeport, Connecticut 06601-1821

Phone: (203) 368-0211
Fax: (203) 394-9901

Barbara Bush

Mr. Thomas Gugliotti, for Ms. Barbara Bush
Updike, Kelly & Spellacy
One State Street
(P.O. Box 231277)
Hartford, Connecticut 06123

Phone: (860) 548-2661
Fax: (860) 548-2680

(By virtue of litigation)

Loretta Bonos

Mrs. Loretta Bonos
594 Bendview Drive
Charleston, West Virginia 25314-1547

(By virtue of litigation)

Attorney for Mrs. Bonos:

Mr. Robert A. Slavitt
Slavitt, Connery and Vardamis
618 West Avenue
Norwalk, Connecticut 06850

Phone: (203) 838-7555
Fax: (203) 866-9724

(By virtue of litigation)

Connecticut Light and Power

Attorney for Connecticut Light and Power:

Richard L. Street, Esq
Carmody and Torrance
50 Leavenworth Street
P.O. Box 1110
Waterbury, Connecticut 06721-1110

Phone: (203) 573-1200
Fax: (203) 575-2600

(By virtue of litigation)

Errata
Schaghticoke Tribal Nation Final Determination

The following is a list of corrections to some typographical errors and editorial mistakes found in the text of the STN FD and in the *Federal Register* notice of the FD. None of the errors are significant and they do not affect the results of the finding.

Approved Federal Register notice as faxed to all parties on 1/29/2004, page 5. Third paragraph, line 6: "and 1889" should be "and 1884" [The 1884 date of the petition is correctly identified on page 8, in the first sentence of the last paragraph.]

Summary Under the Criteria: Introduction, page 5, second paragraph, the third and fourth sentences should read:

The State then filed a motion before the court, dated November 7, 2003, requesting the court to amend the scheduling order to allow submission of certain materials. The Department's response on November 17, 2003, did not oppose this motion, but requested of the court that any submission and response be made in a timely manner to avoid impacting the court approved schedule.

Summary Under the Criteria: Page 15, top of the page:

The citation for the quotation is "HEP FR 69, 44235."
Footnote 5: Omit "beginning with the table of contents."

Page 25, Fourth full paragraph, line 3:

The citation should be "Overseer's Report 9/1865-9/1865"

Page 36, First full paragraph, line 6: Delete "while"

Page 40, Paragraph beginning "Additional evidence", line 9: "1903 census" should be "1902 census"

Page 57, Third paragraph, line 1: "273" should be "271"

[The FD repeats this mistake elsewhere in the report. The phrase "271 names on the certified membership list" should be substituted throughout the report. The two women who were noted as dually enrolled with the SIT were included in the total number of 271 STN members.]

Page 60, First full paragraph, the second sentence should read:

Some of these interview statements cited by the State in its response to the PF, upon examination in the context of the entire interview, were not such statements, but were ambiguous or otherwise did not provide evidence to show that there were not social contacts within the Schaghticoke.

Page 70, Next to the last paragraph, line 2: “and questions of” should be “and questions the evidence of”

Page 81, First full paragraph, third line from the bottom: “after 1763” should be “after 1757”

Page 108, Final paragraph, second line from the bottom:
“Henry” Harris should be “Howard” Harris. [He is correctly identified as Howard Harris on page 110.]

Page 139, First line, delete the word “not.” The total number on the certified list is 271.

Page 140, There are three typographical errors in the totals:

The total number of Bradley/Kilsons on the 2003 membership list is 4.
The total number of J.D. Kilson descendants on the 2003 membership list is 8.
The total number of members on the certified membership list is 271.

Page 141, First paragraph, second sentence should read:

The actual number of living members on the STN’s certified membership list is 271; these two names appear to have been included in the certified total count of 271 members.

Press Release, January 29, 2004, Second paragraph, line 2: “in 1737” should be “in 1736”

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